C. Lyttelton tenures in Englyshe.

Fee symple.

Estate of enheritãce

Fetayle

Generall.

Especiall aft poſſibilite of iſſue

Aft the comen lawe.

Frank tenemt.

Frankteneme nt only.

Curteſy of Englande

Dower.

Terme of lyfe.

Terme of others lyfe.

Poſſeſſion of

After the cuſtome.

¶ Alſo note vere that frankteneme nt after the cuſtome / maye be occupyed in lyke maner as frankte nemẽt by the commen lawe is.

Terme of yeres.

Real. warde of lande.

To holde at wyll.

Chatell.

perſonall. All goodes mouables.

Jan. 14 1935

Cap.i.

THenant in fee ſimple is he which hath landes or tenementes to hold to hym and to his heyres for euer. And it is called in latin feodum ſimplex/ for feodum is called inherytaunce/and ſimplex is as much to ſay as lawfull or pure/and ſo feodum ſimplex is aſmuch to ſaye as lawfull or pure inheryptaunce. For if a man wyll purchaſe landes or tenementes in fee ſimple/ it behoueth him to haue theſe wordes in hys purchaſe/to haue and to holde vnto hym and to his heyres: for theſe wordes his heyres make the eſtate of inheryptaunce. Anno .xx. H. vi. folio. xxxviii.

what is Fee ſimple.

For if any man purchaſe landes by theſe wordes/to haue and to holde to hym for euer/ or by ſuche wordes to haue and to holde to hym and to hys aſſignes for euer/ In theſe .ii. caſes he hath none eſtate but for terme of lyfe/ for that that he taketh theſe wordes/ his heyres: which wordes only make the eſtate of inheryptaunce /in all ſoſ-

mentes and graunces. ☞ ❧ ❧

¶ And if a man purchase lãdes in fee simple & dye without yssue / euery one that is hys nerte colyn collaterall of the hole blode / howe farre so euer that he be from hym of degre / may inherite and haue the same lande as heire to hym. But if there be father and son / and the father hath a brother / whiche is vncle vnto the son / and the son purchaseth lande in fee simple and dyeth without yssue ipuynge the father / the vncle shall haue the lande / as heire vnto the sonne and nat the father / yet the father is more nye of blode vnto the son (for that ꝑ there is a grou̇d in lawe / that inheritaunce may ipnpally descende / but nat ipntially ascende / yet if the son in such case dye without yssue and his vncle entreth in to the lande as heire vnto the son so as he ought by the lawe, & after if the vncle decase wt out yssue ipuyng the father than shal the father haue the lande as heire vnto the vncle / and nat heire vnto the son / for that / that he cometh vnto the lande by collaterall descent / and

Maxie.

nat

nat by lynyall ascencyon.

¶ And in such case where the son purchaseth lande in fee simple and dyeth without issue/they of his blode on the fathers syde shall inheryte as heyre vnto hym/ before any of the blode of the mothers side. But if he haue none heyre on the fathers syde/thā shal the lande descende vnto his heyre on the mothers syde. And this is the opinion of al the Justicz. M.xu. E.iiii. fo.xiiii. But there it was holden if any lande descēde vnto a man by the fathers syde whiche dyeth without issue/that hys next heyre on the fathers syde shall inheryte vnto hym(yᵗ is to say(the next of blode of the father of the graūtfathers syde. And for defaute of such an heyre/they that be of the fathers blode of the parte of yᵉ mother of the father (yᵗ is to say)the graūdmother ought to inherytc. And if there be no further heyre on the fathers syde / than the lorde shall haue the lande by eschete. And so it is if a man take a wyfe inherytc in fee simple/whiche hathe issue a son and dyeth/and the son entreth in

Cap. l. to the tenemētes as son and heyre vnto his mother / & after dyeth without yssue / the heyres on the mothers syde ought to inherite the tenemētes / and nat the heyres on the father syde. And if there be none heyres on the mother syde / than the lorde of whom the same lande is holden / shall haue the same lande by escheate. In the same maner is it if landes descende vnto the son on the father syde / and entreth and after dyeth without yssue / the lande shal descende vnto the heyres on the fathers syde / and nat vnto the heyres on the mother syde. And if there be none heyres on the father syde / than the lorde of whom the lande is holden shal haue the same lande by escheate. And so ye maye se the dyuersyte / where the son purchaseth landes in fee simple / and where he cometh into those landes or tenementes by discent on the father syde or on the mother syde.

Dyuersite.

¶ Also if there be thre brethrene / and the myddell brother purchaseth lande in fee simple and dyeth without yssue / the elder brother shall haue the lande by

¶ The elder son is more worthy of blode

by dyscent and nat the ponger. Also if Cap. 1.
ther be .iii. brethern/ and p^e ponger
brother purchaseth lande in fee simple
and dyeth without yssue/the elder bro-
ther shal haue the lande by descent and
nat the myddel brother/for that p^e the
elder brother is more worthy of blod.

¶ And it is to be vnderstande that no Marie.
man shall haue lande in fee simple by
descēt as heyre vnto any man/but y^t
he be his heyre of the hole blode. For
if a mā haue issue .ii. sōnes by .ii. ven-
tres and the elder purchaseth lande in
fee simple and dyeth without yssue/p^e
ponger brother shal nat haue the lāde/
but the vncle of the elder brother or
som other bys nygne cosyn shall haue
it/for that that the ponger is but of
the halfe blode to the elder brother.
And if a mā haue a son and daughter
by one ventre/ and a son by another
ventre/ the son by p^e fyrst ventre pur-
chaseth lāde in fee simple & dyeth with
out issue/ the syster shal haue the lande
by descent as heyre vnto her brother &
nat ꝑ pōger brother/for y^t that p^e syster
is of the hole blode to her elder brother

Cap. 1. ¶ And also where a man is seased of
landes in fee symple and he hath issue
a sone and a daughter by one ventre/ &
a sonne by another ventre & dyeth/ and
the elder sonne entreth and dyeth with-
out yssue/ the daughter shall haue the
landes and not the younger sonne/ and yet
is ye younger sonne heyre vnto his father
and not his brother. But if the elder sonne
entre not into the lande after the deth
of his father/ but dyeth before entre
made by hym/ thā the younger brother
may entre and haue ye lande as heyre
vnto his father. But where the elder
sonne in the case aforesayd entreth after
the deth of his father and therof hath
possession/ than ye younger shall haue the
lande. Quia possessio fratris de feodo
simplici facit sororem esse heredem.
Marie ye possession of the brother maketh
simple maketh the sister to be heyre.

¶ But if there be .iij. brethern by dyuers ventres/ and the elder is seased in
An. xl. fee simple and dieth without issue/ and
E. iij. to his vncle entreth as heyre vnto hym
ir. by which also dyeth without issue & the
Fencot younger brother may haue the lāde
And the as heyre
same

ap heyre vnto his vncle/ be cause he is of ye hale blod to yt though he be but of haife blode vnto hys elder brother.

¶ And it is to vnderstande that this worde inheryt aunce/ is nat only vnderstande where a man hath landes or tenementes by descent of heryt age. But also euery fee symple or fee tayle that a mā hath by his purchase/ may be sayde inheryt aunce/ for that/ that his heyres may inherite hym. For in a wrpt of ryght that a man bryngeth of lande/ that was of hys owne purchase/ the writ shall saye: Quam clamat esse ius et hereditatē suam. That is to say whiche he claimeth to be his ryght and his inheryt aunce. And so it shalbe sayde in dyuers other wrytes where a man or a woman bryngeth of theyr owne purchase/ as it apereth by the registre.

hynge. An. 24. Fo. vii. what is Enheryt aunce.

* The forme of a wrpt.

¶ And of suche thynges as a man may haue a manuell occupacyon: possessyon/ or receyte/ as of landes/ tenementes/ rentes/ and such other/ a man shall say in his pledyng and in way of barre/ that one such was seased in his

demesne as of fee. But of suche thynges that ye nat in manuel occupacyō. &c. as of auoulon of a churche and suche manet thynge/ there he shall say that he was seased as of fee/and nat in his demesne as of fee. And in latin it is in the same case sayde. Quod talis fuit seisitus in dñico suo vt in feodo/ that is to say/that suche one was seased in his demeane as of fee/& in that other/ Quod talis fuit seisitus. &c. vt de feodo that is to say p̄ one suche was seased as of fee. ☞ ❧ ☜

❧ The moste greate enheritance.

And note well that a man may nat haue a more large ne greater estate of inheryt aunce than fee simple.

❧ Purchase.

Also purchase is called the possession of landes or tenementes that a man hath by his dede or by his agreement/vnto whiche possession he cometh nat by descent of any of his auncestres or of hys colyns/ but by hys owne dede.

☞ ❧ ☜

Fee tayle.

Tenaunt

Cap.ii.

THe tenant in fee tayle is by force of the statute of wystmynster the seconde. Capi. primo for at the comen lawe before the sayde statute/al inherytaunce were fee symple for all the gyftes whiche ben specefyed with in the same statute/were fee symple cõ dycyonally/ as it apperyth by the reherfall of the same statute. And nowe by the same statute tenaunte in the tayle is sayde in two maners/ that is to say/ tenant in tayle generall/ and tenant in tayle specyall.

Diuisiõ

Generall tayle

¶ Tenant in tayle generall/is where landes or tenementes be gyuen to a man and to his heyres of his body begoten/ In this case it is sayde generall tayle for that þ^t what so euer woman that the tenant taketh vnto wyfe/it be haue many wyues/ and by eche of them haue yssue/ yet eche one of these yssues by possibylyte may inherytę þ^e tenemẽtes by force of the sayde gyfte/ because that euery suche yssue is of his body ingendred.

¶ In the same maner is where lãdes or tenemẽtes be gyuen to a woman & to the heyres comynge out of her body

howbeit that she haue many husbandes/yet the issue that she may haue by eche husbande may inherite as issue in the tayle by force of such gyfte. And therfore suche gyftes ben called generall tayle.

Special tayle.

☞ Tenaũt in tayle special/is where landes and tenemẽtes be gyuen vnto a man and his wyfe and the heyres of theyr.ii. bodyes begotten. In suche case none may inherite by force of such gyfte/but those that be engendred betwene them two/and it is called especyall tayle for that if the wyfe dye and he taketh another wyfe and hathe issue the yssue of the seconde wyfe shall neuer inherite by force of suche gyfte. For also the issue of the seconde husbande pe the fyrste husbande dye.

Franke mariag may be made aswell after the espousels as a fore. H. iiii. L. 3.

¶ In the same maner it is where landes and tenemẽtes be geuen by a man vnto another with a wyfe/ whiche is the daughter or cosyn to the geuer in franke mariage. whiche gyfte hath inheryteaunce by these wordes franke mariage vnto it annexed: howe be it that they be nat expressely sayde or re-

hersed

herfed in the gyfte/that is for to faye/ that theſe doneés ſhall haue theſe landes or tenemētes to thē & to theyr heyres betwene thē two ēgendred/& this is ſaide eſpecial tayle for that the iſſue of ye ſecond wyfe may nat inherite. &c

Cap.ii.

what fe tayle is.

¶ And note well that this worde taliare is to ſay to ſet vnto ſum certeite or els ympt vnto ſum certayne inheritaunce. And for that that it is ympt and ſet in certeyne/what yſſue ſhall inherite be forer of ſuch gyftes/& howe longe ye the inheritaūce ſhal endure. Therfore it is called in latin Feodum talliatum. hereditas in quadam certitudine limitata/For if tenant in generall tayle dye without iſſue the donour or his heyres ſhall inherite as in theyr reuerſyon/ In the ſame wyſe is of the tenant in the tayle ſpeciall .&c. For in euery gyfte of the tayle without more ſayeng/ the reuerſyon of fee ſimple is in the donoure. ☞:n:☜

☞ By what ſeruices ye tenant⁊ in tayle

¶ And the doneés and theyr heyres ſhall do to the donour and to his heyres/ſuche ſeruyces as the donour doth vnto his lord nexte above. Except the

doneés ſhal hold

Cap. ii. of they? Donour.

donees in frankis maryage / whiche shall holde quietly from̄e euery maner scruyce (but if it be for fealte) vntyll the fourthe degree be paste. And after that the .iiii. degree is paste / the yssue in the fyfte degree so forth the the other issues after hym / shall holde of the donour and of hys heyres as they holde ouer as is afore sayde.

How the degrees in frank mariag shall be accompted.

¶ And the degrees in frankemariage shalbe accompted in such maner / that is to say / frō the donour to the donees in frankemaryage the fyrste degree / for that ꝑ the wyfe that is one of the donees ought to be ꝑ daughter syster or other cosyn to the donour. And fro the donees vnto they? yssue shalbe accompted the seconde degree. And from they? yssue vnto they? issue / the thyrde degree and so forth. ꝛc.

¶ And ꝑ cause is / for that after euery suche gyfte / the yssues that com of the donour / and the yssues that com of the donees after the fourth degree past / of bothe partyes in suche forme to be accompted / may betwene them by the lawe of holy churche entermarye. And

that

that the donee in franke mariage shal be the fyrste degree of the .iiii. degrees a man may se in a pice vpon a writ of ryght of warde. An. xxxi. E. iii. where the playntyf pleded / that hys ayle or grantather was seased of certaine lan des. &c. And that he held of another by knyght seruyce. &c. whiche gaue the lande vnto one Rafe Hollande wyth his syster in franke maryage. &c. And all these tayles before sayd be specified in the sayde estatute of westmyster the seconde. ☞ : ☜ : ☞ : ☜ :

Cap. ii.

☞ Also there be dyuerse other estates in the tayle: howbeit that they be nat specified by expresse wordes in p^e^ saide estatute / but they be taken by p^e^ equite of the statute / as if landes be giuen vn to a man and to hys heyres males of his body ingendred / In suche case his heyre male shal inherite / and the issue female shal neuer inherite. yet in these other tayles afore sayd it is otherwyse In the same maner it is if landes be gyuen to a man and to hys heyres females of hys body ingendred. In thys case hys issue females shall in herite

Equyte of the statute.

Cap. ii.

herette by force and forme of the tayde gyfte & nat ꝑ illue male/ for ꝑ in fuch cafes where the gyft is. who ought to inherite and who nat/ the wyll of the donour fhalbe obſerued. And if the cafe where landes be gyuen to a man and to hys heyre males pfuynge of hys body/ and he hath yſſue. ii. fonnes and deceaſeth/ the elder fon entreth as heyre male and hath illue a daughter and deceaſeth/ hys brother fhall haue the lande & nat the daughter/ for that the brother is heyre male. But it fhall be otherwyſe in theſe other tayles & foꝛfayde/ whiche ben eſpecyfied in the fayde ſtatute/ the daughter fhall inherite before the brother.

* The wyll of the donour in al thigs fhalbe obſerued.

Tayle vnto the heyre males.

* Alſo if lande be gyuen vnto a man and to his heyres males of his bodye ingendred & he hath yſſue a daughter whiche hathe yſſue a ſon & deceaſeth/ and after that the vncle deceaſeth: In this cafe the ſon of the daughter fhall nat inherite by force of the tayle/ for that who ſo euer fhal inherite by force of a gyfte in the tayle made vnto hys heyres males/ behoueth to cõuey hys

deſcent

descent away by the males. &c. cont.
in fo. lxix. But in the case the do-
nour shall enter for that the doncee
died without yssue male in the tayle.
In so muche that the yssue of the
daughter may not conuey to hym the
descent of heyre male. And in the same
maner is it where landes be gyuen to a
mane his wyfe & to his heyres males
of their two bodyes ingendred. &c.

Also if tenementes be gyuen to a
man and his wyfe and to the heyres
of the body of the man ingendred in
this case the husbande parte estate in
the generall tayle and the wyfe par-
taketh for terme of lyfe.

If landes be gyuen to the hus-
bande & to the wyfe and to the heyres
of the husbande where he ingendred
of the body of ye wyfe. In this case the
husbande hath estate in ye special tayle
and the wife but for terme of lyfe.

If the gyfte be made to the hus-
bande & the wife and to the heyres
of the body of them begotten by the husbande
ingendred, that the wyfe hath estate
in the special tayle, and the husbande
good

The dis-
cent of
the heyres
males.

whan the
husbande
hathe
estate en
tayle e-
special
& whan
the wyfe.

Cap. ii.

but for terme of lyfe. But if landes be gyuen to the husbande and the wyfe and to the heyres that the husbande ingendreth on the body of the wyfe. In this case bothe haue estate i the tayle for (this word) heyres (is not lymyted no more to p^e one thā to the other ¶ Also yf landes be gyuen to a mans heyres that he ingendreth on the body of hys wyfe, in this case the husbande hath estate in the tayle (spetiall) and the wyfe nothynge.

An. xii. H. viii^e fo. i. twyse alledged. ex.

¶ Also if a man haue issue a son and deceaseth/ and the lande is gyuen to the son and to the heyre of the body of hys father ingendred/ thys is a good tayle/ and yet the father was dede at the tyme of the gyfte.

¶ Also there be many other estates in the tayle by^e coyntes of the sayde estate that be not inscripted here. But if a man gyue landes or tenementes to another to haue and to holde to hym and to hys heyres males/ or to hys heyres females, he to whom such gyfte is made hath fee symple, for that that is not gyuen by the gyfte of hym

Fee symple condycyonally

body

body the yssue male or female shalbe/ and so it maye not in any thynge be taken by the equyte of the tayde estaute/and therfore he hath fee symple.

¶ Tenaunt in tayle after possybylyte of yssue extyncte

¶ Tenaunt in the tayle after possybylyte of the yssue extyncte/ is where as landes or tenementes be gyuen vnto a man and his wyfe in specyall tayle/ yssue of them dyscese without yssue/he that survyueth is tenaunt in the tayle after possybylyte of yssue extyncte. And if they haue yssue duryng the lyfe of that yssue/he that survyueth shall not be tayde tenant in the tayle after possybylyte of yssue extencte. Yet if the yssue decese without yssue/so that there be none alyue that may enherytt by force of the tayle/then he that survyueth of the landes is tenaunt en the tayle after possybylyte of yssue extyncte.

¶ Also if landes be gyuen to a man and to his wyfe that be engendred of

Ca.iii. pollyvyrte of yſſue entayle
the body of his wyfe / In this caſe the
wyfe hathe nought in the tenements /
and the huſbande is tenant as doore in
fyerpayl tayle. And in this caſe if the
wyfe decaſe without iſſue of her body
ingendred by her huſbande / than the
huſbande is tenant in the tayle after
pollyvyrte of yſſue entayle.

Marke. ¶ And note well that none may be
tenant in the tayle after pollyvyrte of
yſſue entayle but one of the donees or
the wyfe in fortfact tayle / for the wyfe
in generall tayle may neuer be tayde
tenant in the tayle after pollyvyrte of
yſſue entayle / for that alway during
his lyfe / he may by pollyvyrte take
that that may forfeyt it by force of the
ſame tayle. And in the ſame maner
the yſſue that is tayde by vyrtue of
fyerpayl tayle may not be tayde
tenant in tayle after pollyvyrte de
facto qua ſupra.

And that in tayle after pollyvyrte
yſſue entayle / that neuer be pollyvyrted
of waſte / for the inheritance that ſhuld
was in hym. And [illegible]

[illegible] doth

doth alien in fee. Au.xiii.E.iii.fo.xxii. La.iiii.

¶ Tenant by the curtelie of Englande.

¶ Enant by the curtelye of Englande is where a man taketh a wyfe seased in fee symple or in fee tayle generall or as heyre in the tayle especiall and hath issue by the same wyfe male or female. The issue after beyng deed or alyue if the wyfe deceasse the husbande shall holde the landes during his lyfe by the lawe of Englande and this is called tenant by the curtelye for that it is not vsed in none other realme but only in Englande. And sum say that it shal not be sayde tenant by the curtelye but if that chylde that he hathe by hys wyfe be hathe cryed for by the crye is the proffe that the chylde that he had by hys wyfe was borne.

¶ Tenant in dower. cap.v.

¶ Enant in dower is where a man is seased of certayne landes or tenementes in fee symple or in tayle generall or as heyre in the tayle especiall and taketh a wyfe and deceaseth the wyfe after the deceasse of her husbande shall be endowed of the thirde

Lay.b.

parte of suche landes or tenementes that were her husbandes in any tyme durynge the coverture / to have and to holde to the same wyfe in generalte/ by metes and boundes for terme of her lyfe/wherever the have by her husband issue or none/ and of what age that the wyfe be/so that she passe the age of.ix. yere at the tyme of her husbandes dethe or els she shall not be endowed. And note wel that by the cõmon lawe the wyfe shall not have for her dower but the thyrde parte of the tenementes/ whiche were her husbandes duryng the espousels. By custome of sum countrey she shall have the halfe / and by custome of sum towne or borough she shall have the hole / so in all theis cases she shalbe sayde tenaunt in dower.

Of what age the wyfe shalbe endwed of dowe A.xii.H iii.Fo. iii..by Bank.& Cokyn.

¶ Also ther is.ii.other maner of dowers/that is to say dower called dowement at the churche doze / and dower called dowmet by the fathers assent. Dowemet at the church doze/is where a mã of ful age is sealed in fee simple whiche shalbe wedded unto a wyfe / when he cometh unto the church doze

Dower at the churche doze

and

and there after allyaunce and truethe pleyghd made betwene them endoweth hys wyfe of hys hole lande or of the halfe or lesse parcell / and there openly declare the quantite and the certayne of hys lande that she shall haue for her dower / In this case the wyfe after the dethe of her husbande shall enter into the sayde quantyte of lande / of whiche her husband endowed her without the allignement of any man. Dowement by the fathers assent / is where the father is seased of tenemētes in fee / and hys son and heyre apparent whan he is wedded / endowethe hys wyfe at the churche dore of parcel of the landes or tenemētes of his fathers of thassent of his father and allygneth the quantyte of the parcels / In thys case after the deth of the son / the wyfe shall entre in the same parcell without the allygnement of any other. But it hath ben sayd in thys case / it behoueth the wyfe to haue a dede of the father puyng his assent & consent of such indowement. And if after the deth of the husbād the entre agree vnto any such dowes of the sayde

Cap. 6.

Dower by the fathers assent

A wyfe is asked M. xl. E. 3. lo. riv.

Cap. b.

B. 12. E 4. fo. 3. Why the do agre vntothe same.

A rule.

Inquire

where as the wyfe may entre i her dower without assignement / & where nat.

dowers at the churche wythoute she is coclued to clayme any other dower by the comon lawe of any landes or tenementes / wyche were of her husbande. But if she will she may refuse suche dower at the churche dore / and than she may be endowed after the course of the comune lawe. And note well that no wyfe shalbe endowed of the fat hers assent in the forme afore sayde / saue where her husbande is sole and heyre apparant to hys father.

¶ Inquyre i this .ii. cases of endowement at the churche wat if the wyfe at the tyme of the deth of her husbande pas nat the age of .ix. yeres / if she shall haue suche dower or no.

¶ And note wel yf in all cases where the certaynte appereth what landes or tenementes the wyfe shall haue for her dower / the wyfe may entre after the deth of her husbande without assignement of any other. But where the certaynte appereth nat / as to be endowed of the thirde parte to haue in seuerall / or to be endowed of the halfe after the custome to holde in seuerall

In suche wyse in dowdery that her
husbande dyed her allygned after the
deth of her husbande / because it is not
ymagyne before the allygnement what
parte of landes or tenementes she shal
haue for her dower. But if there be di-
uysement made afore tayne landes in cer-
tayne the one allyeth that that to him
assigned hath and belongeth to another
in fee / whiche taketh a wyfe and after
dyeth / In suche case the wyfe for her
dower shal haue the thyrde parte of the
halfe that her husbande purchased / to
holde in cõmune and occupy in cõmen
with the parte amounting with the heyre
of her husbande / and with the other
tenaunt which alygned not / for that
in suche case her dower may not be al-
lygned by metes and bounds.

And this is to vnderstande / the wyfe
shal not be endowed of landes or tene-
mentes that her husbande dyed seised
with another / all the tyme of his deth.
But where he holdeth in cõmon or other dowed
wyse it is / as in the case afore sayd. And of the
this is to wyt that if the tenaunt in tayle tayne
endowe his wyfe at the churche dore of a

Lay v. her husbande. C.xxiii. H.viii. Fo.xc.

as it is afore sayde that shal serue to lytel or naught to the wyfe for ye the after the deth of her husbande the tille the sayle may entre vpon the poffeff ske the wife/s so may be in the seuere ytther be none yssue in the tayle al

¶ Also if a man sealed in fee sym beyng within age endowe his wyfe the churche doze/s dyeth and the h entreth / In this case the heyre of husbande maye put her out But. otherwyle it is as it semeth where t father is sealed in fee/s the son with age endowe his wyfe of his fathers sent / the father than beyng of ful a

¶ Also there is another dower whi is called Dowement de la plus beale And that is as in suche case that am is sealed of .xl. acres of lande and h holdeth .xx. of the sayde .xl. acres of on man by knyghtys seruice/s the othe xx. acres of another in soccage and taketh a wife/s hath issue a son/s dieth his son beynge within the age of .xxi yeres. and the lorde of whom the lan is holden by knyghtesseruyce entreth into the .xx. acres of lande holden

Dower de la plus beale.

byn

hym/ and them hath and occupieth as
warden in chyualre durig the chyldes
nonage / & the chyldes mother entreth
in the remeaunt/ and it occupiethe as
wardyne or wardyne in Socage. If in
this case the wyfe bringe a writte of
Dower ageyns the wardyne in Chy-
ualry to be endowed of the tenemētes
holden by knightes seruice / the kyngs
court or in any other courte / the war-
dayne in chyualry may plede in suche
case al the mater/ and shewe howe the
wyfe is wardeyé in . socage as it is a-
forsayde / & pray that it may be adiud-
ged by the court that the wife endowe
her selfe of the moste fayre called plus
beale of the tenementes that she hathe
as wardeyne in socage after the value
of the thyrde parte that she claymeth
to haue of the tenementes in chyualry
by her writte of Dower . & yf the wyfe
may nat gayne say it / than the iudge-
ment shalbe made that the wardeyn in
chyualry shal holde the landes holden
of hym durig the nonage of the chylde
quyte from the woman . &c . And that
the woman maye endowe her selfe
of the

of the moste fayre parte of the landes that he hath as wardeyn in focage to the value of the thyrde parte that the wardeyne in chyualry parte &c. And after such iudgement gyuen the wyfe may take her neyghbours & in their presens endowe her self by metes and boundes of the fayrest parte of the tenementes that he hath as wardeyn in focage to the value of the thyrd parte of the landes that the wardeyn in chyualry hath / and that to haue and hold for terme of her lyfe. And suche dower is called dower of the fayrest parte / or de plus beale. ¶ Wyth this agreeth. 9. Ed. iii. Fo. xiii. But there it was sayd / that after the time that the heyre com to his full age / the wyfe shal haue a newe actyon of dower agaynste the heyre to be endowed of the thirde part of all that the man dyed seised. And note well that suche dowement maye nat be / but where the iudgement is gyuen in the kynges courte or in some other court. And the wyfe may do this for saluacyon of the state of the wardeyn in chyualry duryng the nonage

of the

of the coyne. And so maye ye see ye
maner of dowers / that is to say dowe
ment by the common lawe / dower by
customs / dower at the churche dore /
dower of the fathers assent and dower
of the mothers. And remember that
in every case where a man taketh a
wyfe seased of such estate of tenemen-
ters. &c. so that the yssue that he hathe
by his wyfe may by possybylyte inhe-
rite the same tenemētes of such estate
that the wyfe hathe / as heyre to the
wyfe / In suche case after the wyfe is
dede / he shall have the same tenemen-
tes by the courtesy of Englande / and
other wyse not. ¶ Also in every case where the
wyfe taketh an husbande seased of such
estate of tenemētes. &c. so that by pos-
sybylyte it may happe the wyfe to have
some yssue by her husbande / and that
the same yssue may by possybylyte in-
herite the same tenementes of suche
estate that the parsonne had / as heyre
to his father / of suche tenementes the
wife shall have her power / and other wyse
not. ¶ If the tenementes be given
vnto

Cap. 4

¶ Fyue maner of dowers.

Tenant by the curtesye

Marie

Cap. b.

vnto a man and to the heyres that h
getteth on hys wyues body / in fur
tale the wyfe hath naught in the te
mentes . And the husband hath en
An. xii. but as vnto in speciall tayle . Yet it
H. viii. husbande dye without yssue / the la
Fo. i. wyfe shalbe endowed of the same t
mentes / for that the yssue that she
possibilite myght haue had by the la
husbande / may entreyte the same t
tenementes . But if the wyfe deceasse y
vynge the husbande / & after be taken
another wyfe / the .ii. wyfe shall not
endowed in this tale / Causa qua supra

Nota. ¶ A man was seysed of certayne lan
des / and rose a wyfe / and after alyne
the same landes with warranty / an
after the feoffour and feoffe dyed / and
the wyfe of the feoffour bringeth a
actyon of dower against the yssue o
the feoffe / and he vouched the heyre o
the feoffour / and during the vouches
and not termyned / the wyfe of the te
nalle bringeth an actyon of dower
gayust the heyre of the feoffe / and he
maundeth the thyrde parte of all th
her husbande was seysed / and mo

demaund the thyrde parte of thoſe
two partyes / her huſbande was ſeiſed
was iudged that ſhe ſhulde haue no
iudgemente vntyll the tyme that the
other partye were determyned. And
also Note that Manalous ſayeth that
a man be ſeyſed of landes and com
mytteth felony / and abydeth and al
ter is attaynted / the wyfe ſhall
haue good accyon of dower
agaynſte the feoffe.
But if he be eſche
ted vnto the kyng /
or vnto the
lorde /
ſhe ſhall haue no wrytte of dower.
And ſe ſet the practyſe / and
enquyre the cauſe.

Cap. xi.

¶ Tenaunt for terme of lyfe.

Tenaunt for terme of lyfe / is
where a man letteth landes or
tenementes to a man for terme
of lyfe of the leaſe / or for terme of lyfe
for another man. In ſuche caſe the
leſſee is tenaunt for terme of lyfe. But
by comon langage he is called the
for

Cap. vi.

Tenant for terme of lyfe. Fo.cvi.
called tenaunt of free holde. And none
of lesse estate may haue free holde/ but
they of greater estate maye haue free Cap.vi.
holde/for tenaunte in fee symple hath
free holde / and tenaunte in the tayle
hath also free holde.

¶ Tenãt for terme of yeres. Ca.vii.

TEnaunt for terme of yeres is Ca.vii.
where a man letteth landes or te-
nementes to an other for terme of cer-
tayne yeres after the nomber of yeres
that is accorded betwene the lessour
and the lesse / and whan the lesser en-
treth by force of the lesse/than is he te-
naunt for terme of yeres/ and if the les-
sour in suche case reserue to hym a ye-
rely rent vpon such lees/ he may chose
for to dystrayne for the rent in the te-
nementes letten/ or els he may take an
accyõ of det for the arrerages against
the lessee. But in such case it behoueth
that the lessoure be seased in the same
tenemẽtes at the tyme of hys lees /for
it is a good plee for the lesse to say that
the lessour had nothynge in the tene-
mẽtes at the tyme of the lessee excepte
the lees be made by dede endented / in

Ca. vii.

whiche case than suche plee lyeth nat for the lessee to plede.

where lyuere of seysin shalbe requyred and where nat.

And it is to vnderstande that in a lease for terme of yeres by dede or without dede / it nedeth no lyuere of seysen to be made to the lessee but he may enter whansoeuer he wyll by force of the same lease. But of feoffementes made in the countrey / or gyftes in the tayle / or leases for terme of lyfe. In suche cases where free holde shall passe / yf it be by dede or without dede / it behoueth to haue lyuere of seysyn .&c. But if a man let landes or tenementes by dede or without dede for terme of yeres. the remaynder ouer to an other for terme of lyfe / or in the tayle / or in fee / than in suche case it behoueth that the lessoure make lyuere of seysyn to the lessee for terme of yeres / or els ther shall nothynge passe to them in the remaynder / though the lesse enter in the tenemētes. And if the fermour in such case entre before any suche lyuere of seysyn made vnto hym / than is the free holde and the reuercyon in the lessour. But if he make any lyuere of seysyen vnto

Tenaūt for terme of yeres. F.xvii.
vnto the lessee/than it is free holde wᵗ
the fee to thē in yᵉ remaindre after the Ca.viii.
fourm of yᵉ graūt & will of the lessour.
¶And if a man wyl make a feoffemēt
by dede or without dede of landes or te
nementes that he hath in mo townes
than in one in one shyre/if the liuere of
seysyn be made in one parcell of the te-
nemētes in one towne in the name of
all it suffyseth for all the other lādes or
tenemētes comprehendyd in the same
feoffemēt in al other townes in ỳ same
shyre. But if a man make a dede of fe
offement of landes or tenementes in
dyuers shyres / there it behoueth hym
to haue i euery shyre a liuere of seysyn
And in suche case a man shall haue by
the graunt of an other fee symple/ fee
tayle/or free holde wᵗout liuere of sey
syn. As if.ii. men be & eche of them is Erchaū
seased of aquātyte of lande within one ge.
shyre & the one graūteth his lāde to yᵉ
other in erchaūge for the lāde that the
other hathe/ & in the same maner the
other graūteth his land vnto the fyrst
grauntour in erchaunge for the lande
that the fyrste grauntour hathe. In

Ca. vi. thys caſe eche may entre in the other landes ſo taken in exchaunge without any ſuete of ſeyſyn. And ſuche exchaũge made by wordes of tenemẽtes within the ſame ſhyre without any writyng is good ynoughe. And if the landes or tenemẽtes be in dyuers ſhyres that is to ſaye yᵗ that the one haue in one ſhyre/ & the other hath in an other ſhyre/ it behoueth to haue a dede idented made betwene them of ſuch exchaũge.

¶ And note that in exchaunge it behoueth that yᵉ eſtates that both partyes haue in the landes ſo exchaunged be egall. For if the one wylleth and graũteth that the other ſhall haue his lande in the tayle /for the lande that he hath of the graunt of the other in fee ſimple ynough yᵗ the other is agreed to that/ yet thys exchaunge is but voyde / for that the eſtates be nat euyn.

Inexchaũge the eſtates ought to be egall.

¶ In the ſame maner it is where it is graunted and agreed betwene them that the one ſhall haue in the one lande fee tayle / and yᵉ other ſhal haue in the other lande but terme of lyfe. For if one ſhall haue in the one lande fee tayle generalle

Tenure for terme of yeres. Fo.viii.
neral/ and the other in the other lande
for tayle especyall. So alwaye it bepn
uethe that in exchaunge the estates of
both partyes be euen /that is to saye if
that one haue fee symple in that one
lande / that the other shall haue suche
estate in the other lande/and if the one
hathe fee tayle in the one lande / than
the other shall haue lykewyse in the
other lande. Et sic de alijs statibus.
But it is nothynge to charge of the
euen value of the landes / for thoughe
that the lande of that one is is muche
more in value than the lande of the o-
ther / thys is nothynge to purpose /so
that the estates made by the exchaūge
be euen /and so in exchaunge be thyo
graūtes /for euer parte grauntethe
hys lande to the other in exchaunge/
and in echo of theyr graūtes mencyon
shalbe made of the exchaunge.

Tenure for terme of yeres. Fo.viii.
Ca.viii.
An.ir.
E.iiii.
Fo.xli.

¶ And if a man let lande to another
for terme of yeres /thoughe the lessour
dye before the lesse entre into the tene-
mentes/yet maye he entre into the te-
nementes after the deth of the lessour/
for that that the lesse by force of the

Of pos-
sessyon
executed

Ca. viii.

leasse hath ryght incontynent to haue the tenemētes after the fourme of the leasse. But yf a man make a dede of feoffement vnto an other / and a letter of attourney to a man to delyuer to hym seisyn by force of the same dede / yet yf the lyuere of seisyn be nat made in the lyfe of hym that made the dede / it auayleth not for that the other hath no maner of ryght to haue the tenemētes after the purport of ye dede before the lyuere of seisyn .&c. And if no lyuere be made than after the deth of hym that made the dede / the ryght of suche tenētes is contynēt in his heyre or in sum other Also if tenemētes be let to a mā for terme of halfe a yere / or for terme of a quarter of a yere.&c. In suche case if the lessee make wast / the lessour shall haue agaynst hym a wryt of wast / and the wryt shall say Quū tenet ad terminum annorum . But he shal haue a speyall declaracyon vpon the trouth of thys mater / & ye plee shal nat abate the wryt for that he may haue no other wryt vpon ye mater. An. 7. H. 7. fo. 1.

wast agaynste tenaunt for terme of yeres. An 41. H. 8. fo. 4. E. 4. fo. 19.

¶ Tenauut at wyll. Ca. viii.

¶ Tenaunt

TEnaunt at wyll / is where lãdes or tenemẽtes be letten by a mã vnto an other to haue & to holde to hym at the wyll of the lessour / by force of which lease the lessee is in possession / In suche case the lessee is called tenaunt at wyll / for that he hathe no certayne sure estate / for the lessour / may put hym out at what time it pleaseth hym. yet if the lessee sowe the lãde and the lessour after the sowynge and before that hys greynes be rype putteth hym out. yet shall the lessee haue hys greynes / and shall haue ire egresse & regresse to repe and to carye his greynes / for that he wyst nat at what time hys lessour wolde enter vpon hym. Otherwyse it is if tenante for terme of yeres before the ende of hys terme sowith the lande / & the terme is ended before that his greynes be rype / In this case the lessour or he i the reuercion shall haue the greynes / for that the termour knewe wel the certain of hys terme & whã his terme shuld be ended. Also if an house be lete to a man to holde at wyll / by force of wyche

Ca.viii.

* with this agreeth. An.37. H.6.fo. 38

the lessee entreth into the house with-
Ca.viii in whyche house he bryngeth his house
holde stuffe/and after ye lessour puteth
hym out. yet shall he haue free entre/
egresse and regresse in the same house
by reasonable tyme to cary hys goodes
and housholde stuff. And if a mā be sea-
sed of a house in fee symple / fee tayle/
or for terme of lyfe / the whyche hathe
certayne goodes w^t in the same house
and maketh hys executoures and dyes-
seaseth/whosoeuer after his dēth hath
the house/yet shal his executours haue
free entre / egresse and regresse to carye
out of the house the goodes of theyr tes-
tatours by a reasonable tyme.

¶ Also if a man make a dede of feoffe-
ment vnto another of certayne landes
and delyuereth to hym the dede but
no ꝑsone of seysyn / In this case he to
whom the dede is made maye entre in
to the lande /and holde and occupye it
at the wyll of hym that made the dede
for that ꝑt is proued by the wordes of
the dēde /that it is his wyll ꝑt the other
shal haue the lande. But he that made
the dēde may put hym out whā he wyll

¶Also yf an house be let to holde at wyl/the lessee is nat holde to sustayne or repayre the house / as tenaunte for terme of yeres is holden to do. But yf the lessee at wyl make voluntary wast as in pullynge downe of houses/or in cuttyng or kellyng of trees/ It is sayde that the lessour shall haue for that agaynste hym an accyon of Trespas/ As if I delyuer to a man my shepe to dunge or marle his lãde/ or myne oxen to eyre his land/ he sleeth my beestes I may wel haue an accyõ of Trespas agaynste hym nat withstandynge the delyuere. ☙ ❧ ☙

¶Also yf the lessour vpon suche lease at wyl/ reserue vnto him a yerely rent/ he may dystreyn for the rent behynde/ or to haue for that an accyon of Det at his owne choyce. D.6.K.2.i Replevin

Cap.ii.

¶Tenaunt by copy of court rolle. Capi.ii.

¶Tenaũt by copy of court rolle is as if a man be seased of a maner within whiche maner there is a custome and hathe ben vsed tyme out of mynde/ that certayne tenãtes with

Ca.viii.

* waste made by tenaunt at wyll/ how he shalbe punyshed.

Lokc. An.xii. E.iiii. Fo.viii. an accyon of trespas

Cap. ix. in the same maner haue vsed to haue landes or tenementes to holde to them and to theyr heyres i fee symple/or in fe tayle / or for terme of lyfe. &c. at the wyll of the lorde after the custome of the same maner. And suche a tenaunt may nat alyen the lande by dede / for than the lorde may entre as in a thing forfayte to hym. But if he wyll alyen hys lande to another /hym behoueth after sum custome to surrendre the tenementes in cũ courte. &c. in to the lordes handes to the vse of him that shal haue the estate in suche forme or to suche effecte. Ad hanc curiam venit A. de B. et sursum reddidet in eadem cur vnum messuagium. &c. in manus domini ad vsum. E. de A. et heredum suorum vt heredũ de corpore suo exeunt vel pro termino vite sue. &c. Et sup hoc venit predict E. de A. et cepit ne domino in eadem cur messuagium predict. &c. habendum et tenendum sibi et heredibus suis /vel sibi et heredũ de corpore suo exeuntibus vel sibi/ ad terminum vite sue/ ad voluntatem dñi secundum cõsuetudinẽ manerii/ facienũ/ et redd/

Forme of surrẽder in court baron.

inde

inde reddit/debit/seruic̃ /cõsuetudinis inde prius debit et de iure cõsuet/ & dat dño defiue. &c. Et fecit dñmo fidelitat̃. &c. That is to say A. of B. cometh vnto this court/and surrendrith in the same court a mese. &c. into the hãdes of the lorde/to the vse of C. of A. & his heyres/or to the heyres. pluis of his body/or for terme of lyfe. &c. And vpõ that cometh the forsayde &c. of A & taketh of the lorde of ꝑ same court the forsayde mese. &c. to haue & te holde to him & to hys heyres/or to him & to his heyres islupnge of his body/or to him for terme of lyfe at the lordꝭ wyl after custõe of the manor/to do & pelde therfore rẽtes/dettes/seruices/& customes therof before due and accustomed. &c./ & gyueth the lorde for a fyne. &c. and maketh vnto the lorde hys fealte. &c. And such tenãtes ben called tenantes by Copy of court rolle/ for that they haue none other euidence cõcernynge theyre tenementes but the copyes of the court rolles/ and suche tenantes shal nat impled nor be impleded of theyr tenementes by p̃ kingꝭ writ but if they

Cap.ir.

Formc. of plait

Tenant by copy of court rolle/

Cop. ix. they wyll implede other for theyr tene
mentes /they shall haue a playnt made
in the court of p^e lorde in such fourme
or to suche effecte . A. de . B. queritur
versus . C. de . D. de placito terre/vide
licet de vno messuagio quadraginta
acris terre quatuor acris prati. &c. cũ
pertinentiis . Et facit protestationem
seque querelam istam i natura breuis
dñi regis assise mortis antecessor is ad
communem legem / vel breuis domini
regis assise noue disseisine ad cõmunẽ
legem . That is to say A. of B. cõplay
nethe agaynst C. D. of a pece of lande
that is for to say of a mese . & xl. acres
of lande /foure acres medowe. &c. with
the appurtenaunces and maketh pro-
testacyon to sue his playnt in nature
of the kynges writ of assise of the deth
of his antecessour at the comon lawe
or by writte of our soueraut lorde the
kynge of assyse of nouel disseisin at the
comon lawe/or in nature of som other
writte . &c. pleges & proces F . B . And
though that sum such tenantes haue
inheryteunce after the custome and
maner /yet they haue non estate but

at the lordes wyll and after the courts of the comon lawe. For it is sayde yf the lorde put them out/they haue none other remedy but to sue vnto the lorde by peticion. For if they had any other remedy / they shulde nat be sayde tenauntes at the lordes wyll /after the custome of the manor/but the lord wil nat breke the custome that is resonable in suche cases. But Bryan chefe Justice sayth/ye this opynio alwayes hath ben and alwayes shalbe/if such a tenaunte by custome (payng hys serui ces) be caste out by the lorde he shall haue an accyon of Tresspas agaynste hym. H.vi. E.iiii And lyke wyse was the opynion of Dauby chefe Justice. M.vii. E.iiii. for he sayth that the tenaunte by the custome is aswell entre tyte to haue his lande after the custom aswell as he that hath franktenement by the comon lawe.

Cap.ix. what remedy a tenaunt of custome shall haue agaynste hys lorde

Tenauntes by the yerde/be in such nature as tenauntes by Copy of court rolle. But the cause for which they be called tenauntes by the rodde or yarde /is for that whan they wyll surrendre

Tenantes by ye yarde

Ca.ix. surrendre theyr tenementes into the lordes handes to ye vse of another/they shall haue a lyttell ȳcarde or rodde/by the custome and vse in theyr handes whyche they shall delyuer vnto the Stewarde or baylyffe/ after the custome & vse of the maner. And he that shall haue the lande shal take the same lande in the court and his takeng shal be entred in the rolle. And the stewarde or the baylyffe accordig to the custome shall delyuer vnto him that taketh the lande the same parde or another parde in the name of seysyn. And for thys cause they be called tenauntes by the parde. But they haue none other euydence but coppe of the court rolle.

Surrender made without ye court ¶ And also in dyuers lordeshyppes and maners there is suche custome/ yf such a tenaunt that holdeth by the custome wyll alyen hys landes or tenementes/ he may surrendre his landes vnto the baylyffe or to the reue/ or to two sadmen of the same lordshyp/to the vse of hym that shall haue the lande/to haue in fee symple/fee tayle/or for terme of lyfe. &c. ¶ all that shall they present at the

the next courte. And than he shal haue the lande by coppe of courte rolle/shall haue the same lande after the entente of the surrendre. And so it is to wete that in dyuers lordshypes and dyuers maners there be made dyuers customes in suche case/as to take tenantes and as to plede/ & as touchinge other thynges and customes to be done/and al that that is nat against reason may wel be admitted and alowed And such tenauntes that holde after the costome of a sygnory/or after the custom of a maner/though they haue estate of of inherytaunce after the custome of the lordshype or of the maner/ yet because they haue nat any freholde by the court of the comon lawe/ they be called tenauntes by base tenure. Copy.ix. Of customes.

¶ And dyuers diuersytes there be betwne a tenaunt at wyll whiche is in by the lesse of his lessour by the courts of the comon lawe/ and tenaunt after the custome and maner in the forme a forsayde. For tenaunt at wyll after the custome maye haue estate of inheritaūce as it is aforesayde at the lordes wyll Diuersyte.

Cap. ix.

where tenaunt at wyll hath enheritāce & where nat

wyll after the custome and vsage of manor. But yf a man haue landes or tenemētes which be nat within suche manor or lordshyp where suche custome hathe ben vsed in the forme afore sayde/ and wyll let suche landes or tenementes to another / to haue and to holde to him & to his heyres at the will of his lessour/these wordes to the heyres of the lesse be voyde for this is the cause if the lessee dye and his heyre entreth /the lessour shall haue a good accyon of Tresplas agaynst him/but nat so agaynste the heyre of tenaūt by the custō .ꝛc. i any case /for that the custō of the maner i sum case may helpe him to bar his lord i any accyō of Tresplas

¶ Also tenanut by the custome in sum places ought to repayre & sustayn the houses/& the other tenāt at wil ought nat. Also one by the custome shall do fealte/ and the other nat. And dyuers other diuersites there be betwen them

☞ Thus endeth the fyrste boke

¶ The seconde boke.

Homage

Capt.i.

The maner who homage shalbe made.

HOmage is the moste honorable seruice & moste humble seruice of reuerence / that a franke tenante maye do to his lorde. For whā the tenāt shal make homage to his lorde / he shal defende and his hede vncouered / and bys lorde shall syt / and the tenaunte shall kneele before hym on both bys knees / and holde bys handes ioyntly together betweue the handes of bys lorde / and shall saye thus. I become your man from this daye forwarde of lyfe and lym and of erthely worshype and vnto you shalbe trewe and faythfull / & bere you fayth of the tenemētes that I clayme to holde of you / sauyng the faith yt I owe vnto our soueraine lorde the kynge. And whan the lorde so sayth kynge shall kysse hym.

The homage of a relygyous person.

¶ But if an Abbot or a priour or any other man of religyon / shall make homage vnto his lorde / he shall not say I become your man / for that he hath professed hym selfe only to de goddes man. But he shall say thus / I do you

Layd. homage vnto you halde trewe and
bayliall, and bere you fayth for the
tenementes that I clayme to halde of
you. Sauyng the fayth that I owe
vnto our fouereygne lorde the kynge.

For homage of a wyfe

¶ Also if a woman sole shal make homage vnto her lord. She shall not say I become your woman. For that is not vsed in lyke a woman to say that for that becometh the woman to any but only to her husbande whan she is wedded. But she shal say I make vnto you homage, and vnto you halde trewe and fayth shall and shall bere you fayth of the tenementes that I holde of you sauyng the fayth that I owe vnto our soueraygne lorde the kynge.

Homage whā a man holdeth of dyuers lordes

¶ Whan a man halde seuerall tenanceyes whiche he holdeth of seuerall lordes that is to saye euery tenanceye by homage/ than whan he maketh homage vnto one of hys lordes he shall saye in the ende of hys homage. Sauyng the fayth that I owe vnto the kynge and vnto my other lordes.

¶ Also note well that none shal make homage/ but euery as hath estate in fe symple

simple or in fe taple in his owne right or in another mannes right. For it is a grounde in the lawe / that he that hathe estate but for terme of lyfe shall make none homage nor take nons homage. For if a woman haue landes or tenemētes in fee symple or in fee taple whiche she holdeth of her lorde by homage and taketh an husbande: hath ysshe / than the husbande in the lyfe of the wyfe shall make homage / for that he hath tytle to haue the lande by the curtyse if he surmyse hys wyfe. And also he holdeth in ye right of his wife But afore issue betwene them / the homage shalde made i both theyr names But if the wife release before homage made by the husbande in the wyues lyfe / and the husbande holde the hym selfe in as tenaunt by the courtyse / he shall make no homage vnto hys lorde / for that he hathe than none estate but for terme of lyfe. More shalde sayde of homage in the tenure of homage auncestrell.

Capi.l. Marie.

H.bill. E.iiii. fo.28.

¶ For feaute. Capitl. H.iii. feaute

Cap. lx.

FEalte is as muche to say as fidelitas in latin / & whan a frank tenant shall make fealte vnto the lorde/ he shall holde hys ryght hande vpon a boke and shall say thus.

The maner how fealte shalbe made.

¶ Here you this my lorde / yᵗ I vnto you shalbe fayth full & trewe/ and bere you fayth of the landes or tenemētes that I claymme to holde of you/ & truly to you shal do the customes and seruites that I ought to do vnto you at termes assygned as god me helpe and al hys sayntes / and than he kyssyth the boke. But he shall not knele whan he maketh hys fealte/ nor shal make such humble reuerence as is aforesayde in homage. And greate dyuersyte there is had betwene makyng of fealte and of homage / For homage may not be made but to the lorde hymselfe. But the stewarde of the lordes court or the bayliffe may take fealte of the lorde.

Dyuersite betwene homage & fealte.

¶ Also tenaunt for terme of lyfe shall make fealte/ and yet he shal make non homage. And dyuers other dyuersites there be betwene homage and fealte.

¶ Also a mā may se a good note. An.

xb.C.iii. whete and howe a man and howe a man & his wyfe made homage and fealte in the cõmon banke/ whiche is wrytten in suche forme. Note that Johan Newkenor and Elsabeth hys wyfe/made homage vnto wyllyam Thorpe in thys manet. The one and the other hylde ioyntly theyr handes betwene yᵉ hãdes of wyllyam Thorpe and the husbande sayde in thys wyse. we vnto you make homage and bere you fayth for the landes that we holde of. A. your Conusour whiche hathe graunted you our seruyces in B. and in C. and yᵉ other townes. &c. agaynst all men/sauyng the fathe that we owe vnto our soueraygne lorde the kynge & to his heyres and to our other lordes/ and the one and the other kyssed him. And after they made fealte, and the one and the other hylde theyr handes togethet/vpon a boke/& the husbande sayde the wordes and bothe kyssed the boke. More shalbe sayde of fealte in the tenure of Socage and in yᵉ tenure of Franke almayne/and in the tenure of homage Auncestrell.

Cap.ii.

Cap.iii. Escuage is called in latten Scutagium / that is to say seruyce of shelde. And suche a tenãt that holdeth his lande by escuage / holdeth by knyghtes seruice. And also it is comenly sayde þ^t som holde by a fee of knyghtes seruyce / and some by the halfe fee of knyghtes seruice &c. And it is sayde that whã the kyng maketh a voyage royall into Scotlande for to subdue the Scottes / he that holdeth by a fee of knyghtes seruice / behoueth to be with the kynge by .xl. dayes well and courenably arayed for the warre. And lykewyse he that holdeth his lande by the halfe of a fee by knyghtes seruice / ought to be with the kynge by .xx. dayes / And he that holdethe his lande by the forth parte of a fee by knyghtes seruyce / hym behoueth to be with the kynge by .x. dayes. And so after the quãtyte / he that hath more to do more and he that hath lesse / to do lesse. But it appereth by þ^t pleas and argumentes made in a good plee vpon a wryte of Detenue of an obligacion brought by one Hatrye Graye. Anno. vii. E. iii.

An.vii. E.iii.fo liii.

iii. That it nedeth nat to hym that holdeth by eſcuage to go hym ſelfe/ but he may fynde an able perſon for the ware/ couenably arayed for the warre to go with the kyng/ and that ſemeth good reaſon. For it may be that he that holdeth by ſuche ſeruice is ſycke/ in ſuche wyſe that he may nat go nor ryde. And alſo an abbote or any other man of relygion or a woman ſole that holdeth by ſuche ſeruyce/ ought nat in ſuche caſe to go in proper perſon. And ſyr wyllyam Herle that tyme chefe Juſtyce of the comon place/ ſayde in the ſayde yere that Eſcuage ſhall nat be graunted but where the kynge hym ſelfe goeth in proper perſon. And to the abode in iudgement in the ſame yere/ if theſe .xl. dayes ſhalbe accõpted from the daye of the muſter of the kynges hoſte/ made by the comons and by the kynges cõmaundement. Or els from the daye that the kynge fyrſte entreth into Scotlande. Wherfore inquere at thys matter.

Iii. Fo.

what cauſe he that holdeth for eſcuage may ſide a man to do ſeruices by hym.

Howe. xl. dayes ſhalbe accoũted.

¶ And after ſuche voyage into Scotlande it is comenly ſayde/ that vp

Cap.iii.

the auctorytie of parlyament the escuage shalbe set and put in certaintie/ that is for to say a certayne sum of money/ howe moche euery knyght holdeth by a hole fee of knyghtes seruyce which was nat in hys owne p̄oper person/ nor none other w̄ypin with the kyng shall paye vnto the lorde of whome he holdeth hys lande by escuage. As put case that it was ordeyned by auctorytie of parlament/ that euery that holdeth by a hole fee by knyght seruyce which was nat with the kynge/ shall paye to his lorde .xl.s. Than he that holdeth by p̄ halfe of a fee of knyghtes seruice shall pay vnto hys lorde but .xx.s. and so who more more/ and who lesse lesse.

Dyuer syte of escuage

And sum tenauntes holde that if escuage renne by auctorytie of parlyament to any sum of money/ that they shall paye but the halfe of that sum/ & sum but the fourth parte of that sum. But because the escuage that they shal pay is nat certayne for that it is at no certayne what the parliament wyl assesse the escuage they holde by knyghtes seruice. But otherwyse it is of escuage

The co men spe

certayne

certayne/of which shalbe spoken of in the tenure of socage. Cap.iii.

¶ And if a man speke generally of escuage/it shalbe vnderstande by the comon/ speche of escuage nat certayne which is knyghtes seruyce. And suche escuage drawyth vnto hym homage/ & homage drawyth vnto hym fealte/ for fealte is incydent to euery maner of seruyce/ but to the tenure of franke almoygne as it shalbe sayde hereafter in tenure of franke almoygne. So as he that holdeth by escuage holdeth by homage fealte and escuage. Of the escuage

¶ And it is to be vnderstande that whan escuage is so sessed by auctorite of parlyment/ euery lorde of whome the lande is holden by escuage shall haue the escuage so sessed by the parlyament/ because it is vnderstande by the lawe that at the begynnyng suche tenementes were gyuen by the lordes to holde by suche seruyces to defende theyr lordes aswell as the kynge/ and to set in quiet and rest theyr lordes and the kynge of the Scottes aforesayd. And for that suche tenementes came fyrste Marie.

Kay.iii. of the lordes. it is reaſon that they haue the eſcuage of theyr tenementes

Diſtres for eſcuage. ☞ And the lordes in ſuche caſe may diſtreyne for the eſcuage ſo aſſeſſed/ that they may haue the kynges writtes directe vnto the Sheryffes of ſhires to leuye ſuche eſcuage for them as it appereth by the Regiſtre. Fo.88.

¶ But of ſuche tenauntes that holde of the kynge by eſcuage /which were nat with the kynge in Scotlande/ the kynge him ſelfe ſhal haue the eſcuage.

¶ Item in ſuche caſe aforſayd/ where the kynge maketh a voyage royall into Scotlande/ and the eſcuage is aſſeſſed by the parlyament/ yf the lorde diſtreyne his tenaunt that holdeth of hym by ſeruice of a hole knyghtes fee for the eſcuage ſo aſſeſſed. ☞ And the tenaũt plede thand wyl auerre that he was with the kynge in Scotlande. &

Trayall. by.xl.dayes/ and the lorde wyl auerre the contrary /it is ſayde that it ſhalbe tryed by the certyfycacyon of the conſtable of the kynges hoſte/ in writyng vnder hys ſeale whiche ſhalbe ſent to the Juſtyces.

¶ Homage

¶ Homage tealte and escuage. Ca.iiiii.

Tenure by homage/tealte and escuage/is to holde by knyghtes seruyce/ it drawethe vnto hym warde/maryage/ and relefe. ffor whā suche a tenaunt dyeth/his heyre male being within age of.xxi.yere.the lorde shall haue the lande holden of hym vntyll the age of the heyre of .xxi. yere/ whiche is called plaine or full age/for that such an heyre by ꝑ vnderstādyng of the lawe/is nat able to do knyghtes seruyce before the age of.xxi.yere. warde.

¶ And also yf suche an heyre be nat maryed at the tyme of the deth of hys auncestre/than the lorde shal haue the warde and maryage of hym. But yf suche a tenaunt dye/his heyre female being of the age of.xiiii.yere.or more/ than the lorde shal nat haue the warde nother of the lande nor of the bodye/ for that a woman of suche age maye haue a husbande able to do knyghtes seruyce. But if suche an heyre female be within the age of.xiiii yere and nat maryed at the tyme of the deth of her auncestre/than the lorde shal haue the warde The full age of a woman A.xxxv. H.vi. fo.xxxi.

Homage fealte and eſcuage
Ca.xlvii. warde of the lande holden of hym tyll
the age of ſuch an heyre female of.xvi.
yere. For that it is gyuen by the ſta-
tute of weſtmynſter p^e fyrſte. Ca.xxii.
that by two yere next folowynge the
ſayde .xiiii.yere / the lorde may tender
a conuenyent maryage without dy-
peragyng of ſuche an heyre female.
And if the lorde do nat tender her ſuch
maryage within p^e ſayde. ii.yere / than
ſhe at the ende of the ſayd .xvi.yere / may
enter & put out the lorde. But if ſuche
an heyre female be maryed within the
age of.xiiii.yere in the lyfe of the aun-
ceſtre / and the auncestre dye ſhe beyng
within the age of .xiiii.yere / the lorde
ſhall haue but the warde of the lande
tyll the ende of.xiiii.yere of age of ſuch
an heyre female. And than her huſbād
and ſhe maye entre into the lande and
put out the lorde / for this is out of the
caſe of the ſtatute / In ſo moche that
the lorde can nat tender maryage to
her that is maryed .ꝛc. For before the
ſayde eſtatute of weſtmynſter the fyrſt
ſuche yſſue female that was within
age of.xiiii. yere at the tyme of p^e dethe
of her

of her auncetter/ & after that ſhe had accomplyſhed the age of .xiiii. yere without any tender of maryage to her by the lorde/ſuche an heyre female that myght entre into the lande and put out the lorde/as it appereth by the reuerſall and by the wordes of the ſame eſtatute. So that the ſayde ſtatute was made in ſuch caſe all for the auauntage of the lorde as it ſemethe. But yet that at al tymes is vnderſtand by the wordes of the ſame eſtatute/that the lorde ſhall nat haue the.ii.yeres after the .xiiii.yere as it is aforeſayde/

La.title

¶ And note well that the full age of heyre male and female after the common ſpeche/ is ſayde the age of .xxi. And the age of diſcrecyon is ſayde the age of.xiiii. yere/for a chylde at ſuche age which is wedded within ſuch age & a woman may agree to the maryage it diſagree.

¶ And if the wardeyne in chyualry maryed ones hys warde within the age of .xiiii. yere/and after the age of.xiiii. yere he diſagreeth to that maryage/ it is ſayde by ſum folke that the chylde is nat warde.

* The lord ſhal haue but ons the maryage of hys warde.

Ca. xiiii.

is nat holde by the lawe to be maryed another time by his wardeyn/for that the wardeyne had ones the mariage of hym/and therfore he was out of his warde/as cōcerning the warde of hys bodye. And whan he had ones the mariage of hym/therfore was out of his warde he shall no more haue the maryage of hym. In the same maner it is if the wardeyne marye hym and the wyfe dye/the chylde being within age of .xiiii. yere or .xxi. yere. And yᵗ the chylde may dysagree to suche maryage whan he come to the age of .xiiii. yere it is proued by yᵉ wordes of yᵉ statute of Marton Ca. vi. that saythe thus. De dominis qui maritauerint illos quos habent i custodia sua villanis aliis sicut burgences vbi disparagentur/si tales homines fuerint infra. xiiii. annos et talis status qui matrimonia cōsentire non possint/tunc si parentes illius conquerantur/dominus ille amittat custodiam illam vsq; ad etatem heredis. Et omne commodum q̄ inde receptum fuerit conuertatur in commodum

dum heredis infra etatem existentis secundū dispositionem parētum propter dedecus et impositum. Si autem fuerit.xiiii.annorum et vltra qua consentire potuit / et tali mariagio consenserit / nulla sequatur pena. And so it is proued by the same statute / that no disperage shalbe / but where that he hath the warde maryeth hym within the age of.xiiii.yere. Ca.xliii.

¶ Also it hathe ben a question howe these wordes shulde be vnderstande. Si parentes conquerantur.&c. And it semeth vnto some that consyderynge the statute of Magna carta .Cap.vi. that wylleth that heredes maritentur absq; disperagatione .&c. vpon which thys sayde statute of Marton vpon this poynte is grounded as it semeth and i so muche that it was neuer sene that any accyon was brought vpon the statute of Marton for such disperagynge agaynste the wardeyne / and if any accyon may be taken vpon suche matter it shalbe taken by cōmune pleynt accyon before this tyme / or at sume question

tyme

Homage fealte and reſenage.

Ca. iiii.

The exposicion of theſe wordes/ Si parentes conquerantur

tyme to be put in vre/ that theſe wordes ſhalbe vnderſtãde in ſuche maner/ Si parentes conquerantur. ſi parentes inter ſe lamentantur/ whiche is as muche to ſay/ that if the cosins of the chylde haue cauſe to make lamentacyon and complaint among them for the ſhame done to theyr cosyn ſo dyſperaged/ whyche is in maner a ſhame to them all/ than may the nexte cosyn to whome the heritage maye nat deſcende/ entre and put out the wardeyn in chyualry. And yf he wyll nat/ another cosyne of the chyldes may do it/ and he to take the yſſues and profites vnto the vſe of the chylde/ and of that peride the chylde accõpte whã he cometh vnto his full age. Or els the chylde within age may entre hymſelfe and put out the wardeyn. Herquere de hoc.

Also there is many other dyuerſe dyſperaginges/ whych be nat ſpecifyed in the ſame eſtatute. As if the heyre that is in warde be maryed vnto one that hathe but one fote/ or one hande/ or is defourmed or lame/ or hauyng any horryble dyſeaſe/ or els a greate and

contynu-

Homage fealte & reuuage. Fo. xxxii. contynual inquysycyte / or yf the heyre male be maryed to a woman called chylde beryage. And many other causes of dysperagynge there be / but inquyre for the / for it is good matter to lerne. And of heires males that be w^t^ in age of .xxi. yere after ye deth of theyr auncestres vnmaryed. In suche case the lord shal haue ye maryage of such an heyre / and haue space and tyme to tender to him couenable maryage without dysperagynge within the same tyme of .xxi. yere.

Ca. xiiii.

In quere

¶ And it is to wytte that the heyre in suche case may chose if he wyll be maryed or no. But if the lorde whiche is called wardeyne in chyualry / tender a couenable maryage to suche an heyre within the age of .xxi. yere. without dysperagyng / and ye heyre refuse & maryage hym selfe within the same age. Than the sayde wardeyne shall haue the value of the maryage of suche an heyre. But if such an heire male maryage hym selfe within the age of .xxi. yere. agaynste the wyll of the wardeyne in chyualry. Than shall the wardeyne

If the warde refuse the maryage he shall paye.

Ca. iiii.

haue double ye value of that mariage by the force of ye eſtatute of Marton aforſayde / as in the ſame ſtatute is more fully compryſed.

¶ Alſo dyuers tenãtes holde of theyr lordes by knyghtes ſeruyce/ & yet they holde nat by eſcuage nor paye no eſcuage as they that hold theyr landes by caſtell warde/ that is to ſaye to kepe a toure of a caſtel or a gate/ or ſum other place by reaſonable warnynge whan theyr lordes here tell ye enemyes wyll cum or be cum into Englande. And in many other caſes a man may holde by knyghtes ſeruyce and yet he holdeth nat by eſcuage nor payeth no eſcuage as ſhalbe ſayd in the tenure of graũde ſergeauntye. But in all caſes where a man holdeth by knyghtes ſeruyces/ ſuche ſeruyces drawethe to the lorde/ warde/ & mariage. And yf a tenaunt that holdeth of his lorde by ſeruyce of an hole knyghtes fee dye/ his heyre beynge at ful age of xxi. yere hys heyre ſhall paye vnto his lorde. C ſ. for a relefe/ and he that holdeth by the halfe fee ſhall paye. l. ſ.

Caſtell warde.

¶ Alſo

¶Also if a man hold his lande of his lorde by the seruice of.ii. knyghtes fees thā the heyre at ful age at the tyme of the deth of his auncestor, shall paye to his lorde. x.li. for relefe. Ca.iiii.

¶Also if ther be grādfather/mother/ and son/and the mother dyeth lyuing the father of the sonne/ and after the grandfather which hylde his landē by knyghtes seruice dyeth seysed and the lande dyscendethe to the sonne of the mother/ as heyre to the grandfather which is within age/ In such case the lorde shal haue the wardē of the landē/ but nat the warde of the heyre. For that none shalbe in wardē of hys body lyuinge hys father/ becausse the father durynge hys lyfe shall haue the marryage of his heyre apparaūt and nat the lorde. Other wyse it is if the father be dced lyuig the mother/ where the lāde holden in chyualry descendeth to the sonne on the father syde. ec. Lyuing the father the son shall nat be vnder gouernaunce of any other

¶Also yf a man be seysed of lande whyche is holden by knyghtes seruyce and maketh feoffement in fee to

Ca.xiii. hys vse / and dyed seysed to the vse of his heyre within age / and no wyll by hym declared / the lorde shall haue a writ of ryght / of the body & the lande / lyke wyse if the tenaũt had dyed seisyd of the demesne. And if the heyre be of full age at the dethy of his auncestre / in suche a case he shall paye relyefe / lyke wyse if he had ben seised of ye demesne & that is by the statute of. An. iii. H vii. Capi. xvii.

¶ Also ther is a wardeyn in ryght chyualry / & wardeyne in dede in chyualry. wardeyn in ryght chyualry / is where the lorde because of his lordshyp is seised of the warde of the lande and the heyre / vt supra. wardeyn in dede in chyualrye / is where the lorde in suche case after hys seysyn graunteth by dede or without dede the warde of the land or of ye heyre or of both / to another mã / by force of which graunt the graunte is in possession / than is the graunte called wardeyne in dede. &c.

¶ Tenure in Scoage. Cap. v.

Tenure in Socage / is where the tenaũt holdeth of his lord his tenaunce

nacy by certaine seruice for all maner of seruyce / so that the seruyce be nat knyghtz seruyce. As where a man holdeth his lande of his lord by fealte and certayne rent for all maner of seruice / or els where a man holdeth hys lande by homage fealte / & certaine rēt for all maner of seruices / for homage by him selfe maketh nat knyghtes seruyce. Cap. b.

¶ Also a man may holde of hys lorde only by fealte / & such tenure is tenure in socage for euery tenure that is nat tenure in chyualry / is tenure in Socage And it is sayde yᵗ the cause wherfore such tenure is sayde and hath the name of tenure in socage is thus. Quia hoc socagiū idem est q̄ seruiciū soce Et hec soca soce idem est q̄ caruca s. vne soke or one plowgh lande. And in olde tyme before the lamytacyō of tyme of mynde greate partye of the tenauntes that hylde of theyr lordes by socage / ought to cum wᵗ theyr plowes euery of the sayde tenauntes by certaine dayes in the yere / to eyze & sowe the lordes lādes of his owne graynes But for that suche workes were done

Ca.iiii. hys vſe / and dyed ſeyſed to the vſe of his heyre within age / and no wyll by hym declared / the lorde ſhall haue a writ of ryght / of the body ꝫ the lande / lyke wyſe if the tenaũt had dyed ſeiſyd of the demeſne. And if the heyre be of full age at the deth of his auncẽſtre / in ſuche a caſe he ſhall paye relyefe / lyke wyſe if he had ben ſeiſed of ye demeſne ꝫ that is by the ſtatute of. An.iiii. Hyt Capi.xviii.

¶ Alſo there is a wardeyn in ryght chyualry / ꝫ wardeyne in dede in chyualry. wardeyn in ryght chyualry / is where the lorde becauſe of his lordſhyp is ſeiſed of the warde of the lande and the heyre / vt ſupra. wardeyn in dede in chyualry / is where the lorde in ſuche caſe after hys ſeyſyn graunteth by dede or without dede the warde of the land or of ye heyre or of both / to another mã / by force of which graunt the graunte is in poſſeſſyon / than is the graunte called wardeyne in dede. ꝛc.

¶ Tenure in Eſcoage. Cap.v.

Tenure in Eſcoage / is where the tenaũt holdeth of his lord his tenaunce

nasicy by certaine seruice for al maner of seruyce / so that the seruyce be nat knyghtz seruyce. As where a man holdeth his lande of his lorde by fealte and certayne rent for all maner of seruice / or els where a man holdeth hys lande by homage fealte / & certaine rēt for all maner of seruices / for homage by him selfe maketh nat knyghtes seruyce. Cap.b.

¶ Also a man may holde of hys lorde only by fealte / & such tenure is tenure in socage for euery tenure that is nat tenure in chyualry / is tenure in Socage And it is sayde p^t the cause wherfore such tenure is sayde and hath the name of tenure i socage is thus. Quia hoc socagiū idem est q̄ seruiciū soce Et hec soca soce idem est q̄ caruca s. vne soke or one plowgh lande. And in olde tyme before the lamptacyō of tyme of mynde greate partye of the tenauntes that hylde of theyr lordes by socage / ought to cum w^t theyr plowes euery of the sayde tenauntes by certaine dayes in the yere / to eyze & sowe the lordes lādes of his owne graynes But for that suche workes were done

Cap. b. for the liuelode & sustenaunce of theyr lordes, they were acquyted agaynste theyr lorde of al maner of seruyces. And for thys that suche seruyce was done with theyr plowes suche tenure was called tenure in socage. And after that suche seruyce were chaunged in diuers other maner seruice by consent of the tenauntes and by the dyspyte of theyr lordes/that is to say to a yerely rent. &c. But yet the name of socage abydeth/and in dyuers places tenauntes

Rule. yet do such seruyce with theyr plowes vnto theyr lordes/so that all maner of seruices that be nat tenures by knyghtes seruyce be called tenures in socage.

¶ Also if a man holde of hys lorde by eschuage certayne. That is to saye in suche fourme that whan eschuage renneth and is assessed by the parlyament to a more sū or to a lesse sum that the tenant shall pay to his lorde but halfe a marke for eschuage and neyther more ne lesse/to howe greate sōme or lytell sōme that ye eschuage renneth/in thys case because the eschuage is in certaine

before

before that any escuage is assessed. &c. Cap. v.
Suche tenure is tenure in socage and nat knyghtes seruyce. But where the some that the tenaunt shall pay for escuage is nat certayne/ that is to saye/ where it may be that the somme that the tenaunt shal pay for escuage/ may be at one tyme more & another lesse after that it is assessed. &c. than suche tenure is tenure by knyghtes seruyce.

¶ Also if a man holde his lande for to pay certayne rent to his lord for castel warde/ suche tenure is tenure in socage But where the tenaūt selfe ought by hi or by another to make castel warde suche is tenure by knyghtes seruyce. Another difference

¶ Also in all cases where the tenaūte holde the of hys lorde to paye to hym any certayne rent/ that rent is called rent seruyce. Rente seruice.

¶ Also in suche tenures in Socage if the tenaūte haue yssue and dye/ hys yssue beynge within the age of .xxiii. yere/ than the nexte frende of the heyre to whō the heritage may nat descende/ shall haue the warde of the lande and of

Cap. b.

the heyre/vnto the age of the heyre of xxiii. yere/and suche wardeyn is called wardeyne in socage. For if lande dyscende to the heyre by the father syde/ than the mother or sum other neygbe colyn of the mother syde shal haue the warde. And if lãde dyscẽde to the heyre by the mother syde/than the father or the nexte frende of the father syde shal haue the warde of such lãdes or tenũtes And whã p^e heyre cometh to p^e age of xiiii. yere complet/he may entre & put out his wardeyn i socage & occupy the lande hym selfe if he wyll. And suche wardeine in socage shal take no issues or profytes of such landes or tenemen tes to his owe vse/but only to the vse and profyte of the heyre/& of that shal yelde accompte what it pleaseth the heyre/after that p^e heyre hath accom plyshed the age of. xxiii. yere. But such a wardeyne vpon suche accompte shal haue a lowañce of al his resonable re ceytes and expences of al thynges. And if suche a wardeyne marye the heyre within age of. xxiii. yere/he shall make accõpte to the heyre or to hys execu-

The gouernour shalgyne accõpte

tours

tours of the value of the marygc/ though he toke nothynge for the valu of the marpage/for that it shalbe arec ted his owne folp/that he wolde marp hym without takyng the value of the marpage/without he marye hym to suche a marpage that is worthe in va lue as muche as the marpage of the heyre.&c. Also if any other man yᵗ is not a nyghe frende.&c.occupy the lãdes & tenemẽtes of the heyre as wardeyne in socage/he shalbe compelled to yelde accõpte vnto the heyre as well as his nerste frende. For it is no plee for hym in a wryt of accõpte to say/that he is nat his neyghe frende.&c. But he shal answere whether he occuppeth yᵗ lan des or tenemẽtes/as wardeyne in So cage or nat. But inquyre if after that the heyre haue accõplyshed the age of xxi.yere/and the wardeyne in socage contynually occuppeth the lande tyll the heyre cõeth to full age of.xxi.yere if the heyre at his ful age shal haue an acyon of accompte agaynste the war deyne of the tyme that he hathe occu pyed after the sayde.xxi.yeres/ as a-

Cap.v.

☞ An. other gouer nour.

Cap.b.

agaynste hys wardeyne in socage/ a
agaynst hym as agaynst his baylyf
¶ Also if wardeyne in chyualry ma
hys executoures and dye/the heyre
ynge within age .xx.the executour
shal haue the warde durynge the no
age. But if the wardeyne in Socag
make executoures and dye/ the hey
beynge within age of.xviii.yere/ hy
executoures shall nat haue the war
but another nyghe frende to whom
the heryetage maye nat dyscende sha

A notable dyfference.

haue the warde. And the cause of dy
uersyte is / for that the wardeyne
chyualry hath the warde to his prop
vse/and the wardeyn in Socage ha
nat the warde to his owne vse but
the vse of the heyre. And in suche ca
where the wardeyn in Socage dyet
before any such accōpte made by hym

The prerog & tyme of the kige

the heyre is of that without remedy
for yᵗ no wryt of accōptelyet the agai
the executours/but only for the kyn
Also the lorde of whō the lande is h
den i socage after the dyth of his ten
shall haue relefe in such forme. If th
tenant holde by fealte & certayne re

to pa

to pay yerely.&c. If the termes of pay
ment be to pay by two termes of ye yere
or by .iii. termes of the yere/the lorde
shal haue of the heyre of his tenãte/as
muche as the rent amounteth that he
ought to pay by yere. As if ye tenãt holdeth
of the lorde by fealte/& x.s. of rent pay
able at certyne termes of the yere/the
heyre shal pay to the lorde.x.s. for
relefe aboue this x.s. that he shall pay
for the rẽt. Loke more i the statute of
Anno xix. Henry the.viii. Capitu. xv.
And in suche case after the deth of the
tenaunte/such relefe is due to the lord
in contynent of what age soeuer the
heyre be/for that such a lorde may nat
haue the warde of the body nor the lãde
of the heyre. And the lorde in suche
case ought nat to avoyde the payment
of his relefe after the termes & dayes
of payment of the rent / but he ought
to haue his relefe incontynent. And
therfore he may incontynent distrayn
after the dethe of hys tenaunt for the
relefe. In the lam mancrit is where a
tenaũt holdeth of his lorde by fealte/&
by a pounde of comon/or a pounde of

Cap.b.

Relefe
i tenure
of So
cage.

peper

Cap.b. peper by the yere/and the tenaunt dye the lord shal haue for his relefe a pound of compn or a pounde of peper.

whan the lord shall dyscrayn in cõtinẽte & whan he ought to tary

¶ In the same maner it is where the tenaunte holdeth to pay by yere a certayne nombre of capons or hennes/or a payer of gloues/or certayne bussheis of whete & suche other maner thyng. But in cũ case the lord ought to abyde to dystrayn for his relefe tyl a certayn tyme. As if the tenaunt holde of hys lorde by a rose or by a bussheI of roses to pay at the feste of sayntI Johan baptyst/If ſcube a tenaunt dye in winter than the lorde may nat dystrayne for his relefe.ſc̃. vntyll the tyme that the roses by the course of the yere may haue theyr growigȝ.ſc̃. Et ſic de ſimilibus Also yf any parauenture wyll aske why a mã may nat holde of his lorde by fealte only for al maner of seruyces in so muche whan the tenaunt shall make hys fealte he shall sweare to hys lorde that he shall do all seruyce due/and whan he hath made fealte in suche case/ther is non other seruice due

Aquisõ.

answere To thys it may be sayde that whe-

th

the tenaunte holdeth hys lande of hys lorde / it behoueth that he ought to do to hys lorde sum maner of seruyce/ for if the tenaunt nor his heyres ought to do no maner of seruyce to his lorde nor to hys heyres/ than by longe tyme cõtynued it shuld be out of remembraũce of whom the lande was holden / of the lorde or of hys heyre or not/ and than more after & more soner wyll men saye that the lãde is nat holden of the lorde nor of his heyres than otherwyse/ and vpon this the lorde shal lose his escheate of the lãde/ or pereale other forfayture in prokyte that he myght haue of the lande. So it is reason that the lorde and his heyres haue sum seruyce done vnto hym for a profe & a wytnes that the lãde is holden in franke Almoygne as shalbe sayde in franke Almoygne/ and bycause that the lorde wyll nat at the begynnyng of the tenure haue any other seruyces but fealte / it is reason that a man may holde of his lorde only by fealte/ and whan he hath made his fealte he hath done all hys seruyce.

Lap. b.

where fore sayth is gyuen.

Reule.

¶ Also if a man lette toanother for terme

Cap. b.

terme of lyfe certayne landes or tene-
mētes without spechyng of any thyng
to yelde to the lessoures yet he shall de-
to the lessour fealte/for pt he holdeth
of hym/Also if a lees be made to a m
for terme of peres it is sayde the lesse
shall do to pe lessour fealte/for that he
holdeth of hym. And thys is prouy
well by the wordes in a wrytt of wa
whē the lessour hath caused to bryng
a wrytte of waste agaynste hym th
whiche wrytte shall say that the lesse
holdeth the tenementes of the lessour
for terme of peres. So the writ pucc
a tenure betwene them .&c. but he
is tenaunt at wyll after the course o
the comon lawe shall nat make fealt
by cause he hathe no maner of fre
estate. But otherwyse it is of tenaun
after the custome of the maner; by
cause that he is bounde to do fealt
to hys lorde for two causes/one is by
cause of custome/the other is becaus
before that take the hys estate in such
fourme to do fealte.

¶ The fourme of a wryt of waste.

¶ Franke almoygne.

Capitulo. vi.

¶ Tenure

Tenure in Franke almoygne/is where an abbot or pryour / or another man of relygyon or of holy churche holdethe of hys lorde in franke almoygne that is to saye in his tyme. In liberam elemosinam/that is to say/i fre almes. And such tenure began fyrst in olde tyme in such forme whan a man in olde tyme was seysed of landes or tenemētes in his demesne as of fee/and of the same land enfeffed an abbot & his couent/a pryour and his couent to haue & to holde of them and theyr successours in pure & perpetual almes or in franke almoygne or by such wordes to hold of the graūtour or of the lessour & his heyres in fre almes In such case the tenemētes were holden i franke almoygne/and in the same maner it is where the landes or tenemētes were graūted in olde tyme to a dean & Chapter & to theyr successours/or to a person of a churche & to his successours or to any other mā of holy church/& to his successours in fre almes/if he had capacite to take such graūtes or feffemētes &c. and such as

Cap.bi.

The begynnig of the fyrste gyfte in free almes.

holde

Cap.vi.

holde in free almes be bounde of ryght
before god to worshyps/prayers/and
masses/& other dyuyne seruyce for the
soules of the gralitoures or fofoundres
or for the soules of theyr heyres whan
be deade/and for the prosperite and
good lyfe of them that be a lyue.

Tenaūt in free almes shall do no homage

¶ And for this they do at no tyme make
manere of fealte vnto theyr lordes / for
that suche dyuine seruyce is better for
them before god than any doyng of fe-
alte/ and also that these wordes free al-
mes /or franke almoygne exclude the
lorde to haue any worldly or temporal
seruyce /but only to haue dyuyne and
spyrytuall seruice to be done for hym
&. And if suche that holde theyr tene-
mētes in fre almes or frāke almoygne
wyll nat or fayle to do suche dyuyne
seruice as it is saide/the lorde may nat
dystrayn them for the seruyce vndone
&. bicause it is nat set in certain what
seruyce they ought to do/but the lorde
may of that complayne to theyr ordy-
narye/prayenge hym that he wyll set
punyshement and correccyon of that
And also to prouyde and se that suche

negligēce

negligyence be no more done / & the ordinary of ryght ought to don that. ⁊c. Cap.vi.

¶ But where an abbot or a pryour holdeth of his lorde by certayn diuine seruice in certayne to be done / as for to synge a masse euery fryday in the weke for the soules. ⁊c. or euery yere at suche a daye to synge placebo and dirige. ⁊c. or to synde a chaplayne to synge masse ⁊c. or to dystrybute in almes to an hondred poore men an hondred pence at such a day / in suche case if suche dyuyne seruyce be nat done / the lorde maye dystrayne. ⁊c. for that this dyuine seruyce is in certayn by theyr tenure what the abbot or the pryour ought to do. And in suche case the lorde shall haue the traite. ⁊c. as it semeth. And such tenure is nat sayde tenure in free almes / but it is sayde tenure by dyuyne seruyce / for in tenure in free almes or franke almoygne no mentyon is made of any maner certayne seruyce / for none may holde in fre almes or fráke almoygne if there be expressed any maner certayne seruyce that he ought to do. Tenaūt by dyuyne seruyce.

¶ Also if it be demaūded if the tenaūte A queston

Cap. vi.

in franke maryage shal do fealte to the
honoure or to hys heyres before the
fourthe degree be passed. &c. It semeth
An answere that ye / for he is nat lyke as to this en
tent to a tenaũt in free almes or franke
almoygne / for that the tenaunte in fre
almes shall do bycause of hys tenure
dyuyne seruyce for hys lorde as it is a-
foresayde / and that he is charged to do
by the lawe of holy churche / and for
that he is excused and dyscharged of
fealte. But tenaunt in franke mary-
age doth nat by hys tenure such seruy-
ce. And if he do nat to hys lorde fealte
than he doth nat to hys lorde any ma-
ner of seruyce neyther spyrytuall nor
temporall whyche shulde be an incon-
uenyence and agaynste reason that a
man shulde haue estate of inherytaũce
of another / and yet the lorde shall haue
no maner of seruice of him as it semeth
and so it semeth that he shall do fealte
to hys lorde before the fourthe degree
be paste. &c. And whan he hathe done
fealte he hathe done all hys seruyce.
And if an abbote holde of hys lorde in
free almes and the abbote and hys co-

uent

nent vnder theyr comon seale alien the same land. to a seculer man in fee symple / in this case the seculer man shall do fealte to the lorde / for that he maye nat holde of his lorde in free almes / for if the lorde ought nat to haue of hym fealte / than he shall haue of him no maner of seruyce whiche shulde be an inconuenyence where he is lorde and the tenement is holden of hym. Cap.vi.

¶ Also if a man graunte at this day to an abbot or to a pryour landes or tenementes in fre almes or franke almoygne these wordes free almes or franke almoygne be voyde / for that it is ordeyned by the statute whiche is called Quia emptores terrarum (which statute was made.

¶ An.xviii. regis. E. primi. That no man man alyen or graunte landes or tenementes in fee symple to holde of hym selfe / so that yf a man sealed of ceruayne landes or tenementes whiche he holdeth of this lorde by knyghtes seruyce and at this daye he grauntethe the same lande to an abbote. &c. in free almes or franke almoygne / the abbot

Aweſtmynſter the.iii.

Cap vi.

shall holde immedyatly the same tenemētes by knyghtes seruyce of the lord of his grauntoure because of the same

P.12.E iii.en Aſſyſe.

estatute/ so that no man may holde in free almes or in franke almoygne/but if it be by tytle of prescrypcyon or by force of a graunte made to sum of hys predycessoures before the same statute.

* The kyng is aboue hys lawe.

But the kynge may gene landes or tenementes in fee symple to holde in fee almes or franke almoygne/or by other seruyce for he is out of the case of the statute/& note well that no man maye holde lāndes or tenemētes in free almes but of the grauntour or hys heyres/and that for the pryuite of the gyfte / and therfore it is sayde that if ther be lorde meine and tenaūt/and the tenaunte is an abbot that holdeth of hys meine in frāke almoygne/if the meine dye without heyre/than the menalte shall cum by eschete to the sayde lorde aboue/and the abbot than shall holde of hym immedyatly only by fealte /and shall do him fealte for that he may not holde of hym in franke almoygne.&c.

¶ And note well where that suche a man

man of fe|lygyon holdeth his landes of his lorde in free almes.ꝛc.his lorde is bounden by the lawe to aquyte hym of euery maner of seruyce that any lorde aboue hym wyll demaunde or aske of the same tenauntes. And if he acquyte hym nat but suffereth hym to be dys|trayned.ꝛc.than he shall haue agaynst hys lorde a wryt of mesne/and recouer hys damages and costes of hys sute. Cap.vi. A wryte of mesne

¶ Homage auncestrell.

¶ Cap vii.

Ca. vii.

TEnure by Homage auncestrell is where a tenaunt holdeth hys lande of hys lorde by Homage/ and the same tenaunte & hys auncestre whose heyre he is hathe holde of the same lande of the sayde lorde and of his auncestres whose heyre the lorde is frō tyme out of mynde by homage & haue done Homage vnto hym/which is cal led Homage auncestrell bycause of the contynuaunce whiche hath bene by ty tle of prescrepcyon in the tenauncy / in the blode of the tenaunt /and also i the lordeshyp in the blode of the lorde. And such seruyce by homage aūcestrel warrantyc.

La. vii. drawyth to hym warranty yf the lorde that is alyue hathe receyued Homage of suche a tenaunte / he ought to warrant his tenaũte whan he is impleded of the lãdes holden of hym by homage auncestrell. And also suche seruyce by Homage auncestrell drawyth to hym aquytaunce / that is to saye / the lorde ought to aquyte his tenaunt agaynste al other lordes aboue hym of euery maner of seruyce. And it is sayde that if suche tenaunte be impleded by a Pꝛecipe quod reddat &c. and he vouchyth hys lorde to warranty / whiche cometh in by prosesse and asketh of the tenaunte what he hathe to vnde hym to warranty / and he shewethe howe he and his auncestres whose heyre he is / haue holden the lande of the vouche and of hys auncestres whose heyre he is by Homage fro tyme out of mynde / if the lorde which is vouched receiueth none homage of the tenaũt nor of any of hys auncestres / the lorde than if he wyl may disclame in the lordshyp / and so put out the tenaũte of his warrãty / but if the lorde which is vouched hath

A quytaunce.

A Dysclamer.

receyued

receyued homage of the tenaunt or of any of hys auncestres / than may he nat dysclayme but he is bounde by the lawe to warrant the tenaunt / and thā if the tenaunt lese the lande in defaute of the vouche / he shal recouer i value agaynst the vouche of the landes or tenemētes that the vouche of the landes and tenemētes that p^e vouche had at the tyme of the vouche or any tyme after. And it is to wete that in euery case where the lorde may dysclayme in hys lordeshyp by the lawe i court of record / s of that wyl dysclame / his seygnory is extynct and the tenaunt shall holde of his lorde nexte aboue the lorde whyche so dysclameth. But if an abbot or a pryour be vouched by force of homage auncestrell. thoughe he hathe neuer taken homage .ex. yet he can nat dysclame in thys case nor in none other case / for they can nat deuyse that thynge in fee whyche hathe ben vested in theyr house. Pasche decimo Edwardi quarti.

Ca.vii. Recouery in value.

Acule.

¶ Also if a man that holdethe his lāde by homage auncestrell alyeneth hys

Ca.vii. lande to another in fee the alyen shall do homage to his lorde. But he holdeth nat of his lorde by homage auncestrel/ for that the tenaunsy was nat contynued in the holde of the auncestres of the alyen/ nor the alyen shall neuer haue the warrantye of hys lande of hys lorde/ for that the contynuance of the tenaunsy in the tenaunte and in hys blode by the alyenacyon is dyscontynued/ and so se that the tenaunte that holdeth his lande by homage auncestrel of hys lorde/ and suche a tenaunte alyenethe in fee/ though that he take estate of the alyen agayne in fee/ he holdethe the lande by homage / but nat by homage auncestrell.

¶ Also it is sayde that if a man holde his lande of hys lorde by homage and fealte and he hath made Homage and fealte vnto hys lorde & the lorde hathe issue a son and dyeth/ and the lordshyp dyscendeth to his son. In this case the tenaunte whiche dyd / Homage to the father shal nat do homage to the sone/ for that whan a tenaunte hathe made onces homage to his lorde/ he is excusid

A man shall make

for

for terme of hys lyfe to make homage to any other heyre of ye lorde. But yet he shall do fealte to the sone and heyre of his lorde / though that he made fealte to hys father. La.vii.

homage but ons in hys lyfe.

¶ Also if the lorde after the Homage to hym made by hys tenaunte/graunte the seruyce of his tenaunt by dede vnto another in fee / and the tenaunt attorneth. ꝛc. the tenaunte shall nat be compelled to do homage/but he shall do fealte though he dyd fealte before to the grauntour / for fealte is incydent to euery attornement whan the lordeshyp is graunted. But if a man be seysed of a manour / and another man holdeth his lande of hym as of the manoure aforesayde by homoge/the whiche hath done Homage to hys lorde whiche is seased of the manoure / yf after that a straunger bringe a Precipe quod reddat agaynst the lorde of the manoure and recouere the the manour agaynste hym and sueth the execucyon ꝛc. in this case the tenaunte shall ones agayne do homage to hym that recouered the the manour/for ye the state of him whiche Arule.

whan a mā shall make twyse homage

Fo. vii. receiued homage before /is deteted by the recouere. And it shall nat lye in the mouthe of the tenaunt to falsefye or defete the recouere whiche was agaynst hys lorde /and so se the dyuersyte. In thys case where a man cometh to hys lordshyp by recouere/ e where he cõeth by dyscent or graunte of the seygnory.

Dyuersyte.

¶ And if a man tenaũt whiche ought by hys tenure to do Homage to hys lorde come to hys lorde and say to hym syre I owe to do vnto you homage for the tenemẽtes that I holde of you/ I am redy to do you homage for yͤ same tenemẽtes/for the whiche I pray you that ye wyl nowe receyue it/and if the lorde thã refuse to receiue it/than after suche refuse the lord may nat distraine the tenaunte for the homage / before that the lorde requyre the tenaunte to do homage e the tenaũt refuse to do it.

whan the tenaunte shall nat be dyscreyned whan he doth the homage

¶ Also a man may holde hys lande by homage auncestrell and by escuage or by other knyghtes seruyce as well as he myght holde his lãde by homage auncestrell in Hostage.

Cap. viii.

Ca. viii.

THenure by graunde sergeauntye is where a man holdeth hys landes and tenementes of our soueryne lorde the kynge / by the seruyce whiche he ought to do in his owne proper persō / as to bere the kynges banes or hys speare or to lede hys hoste / or to be hys marshall / or to bere his swerde before hym at hys coronacyon / or to be his sewer at his coronacion / or hys kerver / or butteler or to be one of hys chāberlaynes of hys receyte of hys escheker / or to do such seruyces. &c. and the cause wherefore suche seruyce is called greate sergeaunt / is for that it is more honorable and worshypful / and digne thanne the seruyce of the tenure by escuage for he that holdeth by escuage is nat lympted by hys tenure to do any more especyall seruyce than any other that holdeth by escuage ought to do. But he that holdeth by graunde sergeaunty / ought to do a specyal seruyce to the kynge. But he that holdeth by escuage ought nat to do.

* The moste honorable holdyng

Ca.viii. ¶Also if the tenaunte whiche holde
by escuage dye/hys heyre beyng at
age/if he holde by a knyghtes fee/
heyre shall pay but an C.S. for hys
relefe/as it is ordeyned by the statute
Magna carta. Ca.ii. but he that
deth of the kynge by graūde sergeaū
and dyeth his heyre beyng of full ag
shall pay vnto the kynge for hys reli
the value of hys landes or tenement
by yere/beside the charges and rep
ses whiche he holdeth of the kynge
graunde sergeaunte. And it is to wo
that seruantia in latē is seruicium/an
so magna seruantia is magnum ser
cium/that is to say a grate seruyce.

¶Also those whiche holde by escuag
ought to do theyre seruyce out of th
realme but they that holde by graun
sergeaunt for the most parte ought
do theyre seruyce within the realme.

¶Also it is sayde that in the marche
of Scotlande some holde of the kyn
by cornage that is to saye to blowe
horne for to warne the men of the
trey.&c. whan they here that the s
tes or other enemes wyl cum or ent

into Englaude .xx. wyche serupce is graunde sergeaunt.xx. but if any tenãt holde of any othere lorde than of the kynge by such serupce of corpage/that is nat graunde sergeaunte / but it is knyghtes serupce/and draweth to hym warde /marpage/and relefe/ for none may holde by graũde sergeaunt but of the kynge only. Ca.viii.

¶Also a man may se in the .xi.yere of Henry the fourthe that Cokayn than beyng chefe baron of the chequer cam into the comon place dryngynge with hym a coppe of record in these wordes. Talis tenet tantam terram de domino regis per serianciam ad inueniendum vnum hominem ad guerram ultra qua tuor maria.xx. That is to saye/suche a man holdethe so muche lande of our soueryne lorde the kynge by sergeauntye to warre within the foure sees/and he demaunded whether he was graunde sergeaunty or petyte sergeaunty /and Wanke than sayde that it was graũde sergeaunty /for that it was serupce to be done by the body of a man /& if that he may nat fynde a man to do the seruyce

Ca.viii. uyte for hym he muste do it hym self

To whom the other Justyces answeryd

Opinon Tokayne than sayde/the tenaunte thys case shall paye reliefe to the value of the lande by yere/to the which was none answere. And note that all they that holde of the kynge by graunde sergeaunt/holde of the kynge by knyghtes servyce/and the kynge of that shall haue warde mariage and reliefe. But the kynge shall not haue of them eschuage if they holde not by eschuage

Petyte sergeauntye. Cap.ix.

Cap.ix. Tenure by petyte sergeauntye is where a man holdeth hys lande of our soueraygne lorde the kynge yelde vnto hym yerely a Bowe/or a sworde/or a dagger/or a knyfe/or a spere/or a payre of gloues of mayle/or a payre of spores gylte/or an arowe or dyuers arowes/ or to yelde such other smale thynges touchynge warre

warre. and such seruyce is but Socage Cap.xx.
in effecte/ for that that the tenaunte by Petyte
hys tenure ought nat to go nor to do serge
any thyng in hys owne proper person auty is
touchyng the warre. But to yelde and socage
paye yerely certayne thynges vnto the i effecte.
kynge/ as a man ought to pay a rente.
And note that no man may holde lande
by graunde sergeauntye nor by petyte
sergeaunty but of the kynge.

¶ Burgage. Cap.x.

TEnure in burgage is where an Cap.x.
auncyent borough is/ of the whi
che the kynge is lorde/ and they
that haue tenementes within the bo-
rough holde of the kynge theyr tenu-
mentes that euery tenaunt for hys te-
nemente ought to paye to the kynge a
certayne rente by yere .xx. And suche
tenure is but tenure in socage/ and the
same maner is where another lord spi-
rituall or temporall is lorde of such a bo
rough/ & the tenaūtes of the tenement
such a borough holde of theyr lorde
& paye eche of them yerely an annuell
rente/ and it is called tenure in Bur-
gage for that the tenementes within

the

Cap. x.

the borughe be holden of the lorde o
the borughe by certayne rēte. ¶. And
it is to wete that p^e auncyent townes
called broughes be the moste auncient
and eldest townes that be withi Eng
lande for the townes that nowe be c
tees or countres in olde tyme were bo
roughes and called borroughes / for
such olde townes called borroughes
theise burgeses of the parlyamēt to th
parlyament whan the kynge hath so
moned hys parlyament.

Burgeses of p^e parlyament.

¶ Also for the greter parte of such
borroughes haue dyuers customes an
vsages whiche be nat had i other tow
nes / for ī borrughe hath such custom
that if a man haue issue of many sōne
and dieth / the yongest son shal inheri
all the tenementes whiche were his
thers w^t in p^e same borroughe as pert
vnto his father by force of the custom
the which is called borroughe Englys

Customs of townes.

¶ Also i sum borroughes by p^e custom
the wyfe shal haue for her dower al th
tenemētes whiche were her husbādes

Deuyse by custome.

¶ Also in sum borroughe by the custo
a man may deuyse by hys testamen

his landes and tenementes within the
hath in fee simple within the same bo-
roughe at the tyme of his deth/ and by
force of suche deuyse/to whom suche de
uyse is made/ after the deth of the de-
uysoure may entre in the tenementes
to hym deuysed/ to haue and to holde
to hym after the formes effectes of the
deuyse without any liuere of seysyn
therof to be made to hym. Cap. x.

Also thoughe a man may nat graunt
nor gyue his tenementes to his wyfe
during the couertute/for that that his
wyfe and he be but one persone in the
lawe/yet by suche custome he may de-
uyse by his testament his tenementes
to his wyfe/to haue and to holde to her
in fee simple/or in fe taple/or for terme
of lyfe/or of yeres for that suche deuise
taketh none effecte but after the dethe
of the deuysoure. And if a man at dy-
uers tymes make diuers testamentes
and diuers deuyses .&c. yet the laste
deuyse and wyll made by hym shall
stande and abyde. Mj. iiij. Ff. ii.

Also by suche custome a man maye
deuyse by his testament that his exe-

Cap. I. executours maye alyen and sell the tenemētes that he hath in fee symple for a certayne sum to dystrybute for the soule / in thys case thoughe the deuysoure dye seased of the tenementes and the tenemētes descende vnto his heyre yet the executours after the deth of the testatoure maye sell the tenementes so deuysed and put out the heyre and ther of make a feoffemente alyenacyon and estate by dede or without dede to them to whome the sale is made vnto.

How a man maye make lawefull estate where he hath nothyge in the laude.

¶ And so maye ye se here a case where a man may make a lawful estate/and yet he hath nought in the tenementes at the tyme of the estate made/and the cause is for that / that the custome and vsage is suche. Quia consuetudo erecta causa rationabili vsitata preuat cōmunē legem. For a custome vsed vpō a certain reasonable cause barreth the comon lawe. And note well no custome is to be alowed but such custome as hath bene vsed by tytle of prescrypcyon / that is to say/from tyme whereof is no mynde. But diuers oppynyons haue ben of tyme out of mynde and of

Merie

tytle

tytle of prescryppcyon whiche is all one in the lawe/ for some men haue sayde that the tyme of mynde shalde sayde for tyme of ymplacyon in a wrytte of ryght/that is to saye/ fro the tyme of kynge Rychardc the fyrste after the conqueste/as is gyuen by the statute of westmynster the fyrste/for that a wryt of ryght is the moste hyest wryt in hys nature that maye be. And in suche a wryt a man may recouer hys ryght of the possessyon of hys auncestres of the moste auncyente tyme that any man maye by any wryt by the lawe. And in so muche that it is gyuen by the sayde estatute that in suche a wryt none shall be herde to aske of the seysyn of hys auncestres of more longer tyme than of the tyme of kynge Rychardc afore sayde/therfore this is proued that continuaūce of possessyon or other customes and vsages vsed after the same tyme is tytle of prescryppcyon/and this is certayne. And other haue sayde that well and truly it is that seysyns continuaūce after the ymplacyon. &c. is a tytle of prescryppcyon as is afore sayde

Capi.x.

¶ The opinyōs of the tytle of prescryppcyon in tyme of mynde.

westm. 1. Ca. xxxviii.

Cap. 5.

and by the cauſe aforeſayde. But they haue ſayde that there is alſo another tytle of preſcrypcyon p^t was in the comon lawe before any eſtatute of lymytacyon of wrytes .&c. and that was where a cuſtom or vſage or other thig had ben vſed fro tyme whereof mynde of man ronneth nat to the contrary / & they haue ſayde that this is proued by the pledyng where a man wyll plede a tytle of preſcrypcyon of cuſtome.&c. he ſhal ſaye that ſuche cuſtome hathe ben vſed fro tyme whereof the memory of men ronneth nat to the contrary / that is as much to ſay / whan ſuch a matter is pleted that no man than alyue hath harde one proffe to p^t cõtrary / nor hath no knowlege to the contrary / and in ſo muche that ſuche tytle of preſcrypcion was at the comon lawe & nat put out by none eſtatute. Ergo it abydeth as it was at p^e comon lawe / & the ſoner i ſo muche p^t the ſayde lymitacõ of a wryt of ryght.&c. is of ſo longe tyme paſſed. Ideo quere de hoc. & many other cuſtomes & vſages haue ſuch aũcyẽt boroughs

Tytle of preſcrypcyon.

Inquire.

Also every borough is a towne / but

nat to the contrary / more shalbe sayde of customes in the tenure of villenage. Capi.x.

Villeynage. Cap.xi.

Tenure in villenage is most properly whan a villayne holdeth of hys lorde to whome he is villayne certayne lãdes & tenemẽtes after the custome & maner or els at the will of hys lorde / and to do his villaine seruyce / as to dere / bringe / and carry out the donge and fylthe of the lorde vnto the lande of hys lorde there to laye it / caste it / and spreade it abrode vpon the lande / and to do suche other maner of seruyce / and sum free tenauntes holde theyr tenementes after the custome of certayne manours by suche seruyces / & theyr tenure is called tenure in villeynage / and yet they be no villaynes / for no lãde holdẽ in villenage or villayne landes / or any custome vsynge of the lãde shal neuer make free man villayne. But a villayne may make free lande to be villayne lande vnto his lorde / as if a villayne purchase lande in fee symple or in fee tayle / the lorde of the villayne maye enter into the lande and put out Cap.xi.

Howe some holde in villenage and be no villaynes.

Cap.xi. hys vyllayne & hys heyres for euer and after the lorde if he wyl he may let the same lande to the vyllayne to holde in vyllenage. Also if a fetfemente be made to a certayne person or persons in fee to the vse of a vyllayne or if a vyllayne or any other persons be enfeffed to the vse of a vyllayne / what estate so euer the vyllayne hath i the vse / in fee tayle for terme of lyfe / or peres / the lorde of the vyllayne maye enter in all those landes & tenemētes lykewyse as yf the vyllayne had bene alone seysed of the demesne. And that is by the statute of An.xix.H.vii. But yf a free man wyll take any landes or tenementes of hys lorde by suche vyllayne scrupce / that is to say to pay a fyne to hys lorde for his marryage or for the marryage of his son or hys daughter / thā shall he pay suche a fyne for the marryage .&c. for that it is the folye of suche a free man to take in suche fourme lādes or tenemētes to holde of hys lorde by suche bōdage. yet that maketh nat the free man vyllayn.

Diuisyō ¶ Also euery vyllayne eyther he is vyllayne by prescrypcyon / that is to saye / he and

he and hys auncesters haue ben vyllaynes tyme out of mynde / or he is vylayne by hys owne cõfessyon in courte of recorde. But yf a free man haue dyuers yssues / and after confesse the hym selfe to be vyllayne to another i courte of recorde yet his issues which he hath before the confessyon be free / but the yssue whiche he shal haue after the confessyon. &c. shalbe vyllaynes.

Lap. xi. of a vylayne. T. ii. & iiii.

Also yf a vyllayne purchase landes and alyeneth the same landes to another before hys lorde enter / than the lorde may nat enter for it shalbe iuged hys owne folye that he entred nat whã the lande was in his vyllaynes hãdes / And so it is of hys other goodes / for yf the vyllayne bye or sell or gyue goodes to another before that the lorde seaseth the goodes than the lorde may nat sease them / but yf the lorde before any suche sale or gyfte cometh within the house of the vyllayne where suche goodes be / and there openly amonge the neyghbours clayme the same goodes to be hys / & forbyddeth parcell of the same in name of seysyn of all the goodes. &c.

What maner of lande purchased by a vyllayne is good.

Cap.xl. A good seysen.

Thys is sayde a good seysyn in the lawe. And the occupacyan that the vyllayne hathe after suche clayme in the goodes shall be taken in the lawe in the ryght of the lorde.

But yf the kyng haue any vylayn that purchaceth landes & alyeneth before that the kyng entre/yet the kynge may entre in the lande / in whose handes the lande cometh to. Or yf the vylayne bye or sell dyuers goodes before that the kynge sease the goodes. yet the kyng may sease them in whose handes that euer they be. Quia nullum tempus occurrit regi/for no tyme renneth agaynste the kynge.

Marie.

¶ Also yf a man let lande to a nother for terme of lyfe sauynge the reuersyon to hym / and a vylayne purchaseth of the lessoure the reuersyon / in thys case it semeth that the lorde of the vylayne may incontinēt come to ye lande and clayme the same reuersyon as lorde of the same vylayne/& by thys clayme the reuersyon is incontynent in hym/ for in any other fourme he maye not come to the reuersyon for he maye not

Whā the lorde. shall clayme reuersiō and a bouson.

enter

cutter vpon the tenaunte for terme of lyfe/ and yf he ought to abyde tyl after the dethe of the tenaunte for terme of lyfe/ than happely he myghte come to late/for parauēture the vyllayne wyll graunte or alyen it to a nother in the lyfe of the tenaunte for terme of lyfe. In the same maner it is where a vyllayne purchaseth the auoulone of a chyrche full of an incombent/that the lorde of the villayne may cū to the sayd churche & clayme the auoulon. And by thys clayme the auoulon is in hym/ for yf he abyde tyl after the deth of the incombent and than present his clarke to the sayd church. Then in the meane tyme the vyllayne myght alyen the auoulon. &c. & so put out the lorde from hys presentacyon.

Cap. xl. purchased by hys vyllayne.

Also there is a vyllayne regardaunt and a vyllayne in groſſe. Vyllayne regardaunte is as yf a man be ſeyſed of a manoure to whiche a vyllayne is regardaunt/ and he that is ſeaſed of the ſayde manoure or they whoſe eſtate he hathe in the ſame manoure haue bene ſeaſed of the ſayde vyllayne and of

Dyuiſiō Vyllain regardaunt.

Cap. xi. vyllaine i grosse.

his auncestres as vyllaines regardaū to the manour ſro tyme out of mynde. And vyllaine in grosse is where a ma is seysed of a manoure to the whiche vyllayne is regardaunt and he graunteth the same vyllayn by his dede vnto a nother / than he is vyllayne in gross and not regardaunt.

A forme of prescryppcion.

Also yf a man and hys auncestres whose beyre he is / hathe ben seased a vyllayne and of his auncestres as vyllayne in grosse tyme out of mynde suche ben vyllaynes in grosse. And note wel that of suche thynges whiche may not be graunted nor alyened without dede or fyne / a man that wyll haue suche thynges by prescryppcyon maye not otherwyse prescrybe but in hym and hys auncestres whose beyre he is / and not by these wordes in hym and in thos whose estate he hathe / for that / that he maye not haue theyre estate without dede or wrytyng / the whiche behoueth to be shewed to the courte yf he wyll haue any aduauntage of thys / and because that the graunte and the alyencyon of a vyllayne lyethe not without dede or other wrytynge / A man may

not prescrybe in a vyllayne in grosse without the wynne of wyttynge but in hym selfe that claymethe the vyllayne and in hys auncestres whose heyre he is. But of those thynges whiche be regardaunt or appēdaunt to a manoure or to other landes or tenementes / a man may prescrybe that he and they whose estate he hath were seased of the manoure or of suche landes or tenementes as regardauntes or appendauntes to the manoure or to suche landes and tenementes. &c. from tyme out of mynde / and the cause is for this that such a manoure landes and tenementes may passe by alyenacyon without dede. &c. And it is to wyt p^t nothynge is named regardaunte to a manoure but a vyllayne. But certayne other thynges as auoulons and comune of pasture . &c. be named appendauntes to the manoure or to other landes & tenemētes. Cap. xl.

Regardaunt

Appendaunt

Also yf a man in courte of recorde knowlege hym selfe to be vyllaine that neuer was vyllayne before / such one is vyllayne in grosse.

In grosse.

Also a man that is vyllayne is called vyllaine / and a woman that is vyl-

Cap. xi. Nyefe & wayne.

layne is called nyefe/ & a man that is outlawed is called an outlawe/ and a woman that is outlawed is callede a wayne.

Justi. li. i. Tit. de i genuis Suffy cit aune liberam fuille matrem Sputi⁹

¶ Also yf a vyllayne take a free woma to wyfe / the yssue betwene them shal be vyllaynes. But yf a nyef take a fre man to husbande/ theyr yssue shalbe fr And that is contrarye to the lawe cy uyle/ for there he sayth that/ partus sq quitur ventrem.

☞ Also no bastarde maye be vylayne but yf that he wyll knowlege hym self to be a vylayne in courte of recorde/ t he is in the lawe Quasi nullius filius as the sone of no man/ for that he may be inheryteur to no no man.

¶ Also euery vyllayne is able and fre to sue all maner of accyons agaynst euery person excepte agaynst hys lorde to whome he hys vyllayne / and yet in certayne thynges he maye haue a gaynst hys lorde an accion of apele for the dethe of hys father or of hys other auncestres whose heyre he is . Also a nyef whiche is raunsshed by here lorde may haue apele of rape agaynste hym.

Also

¶Also if a vylayne be made executour to a nother / and the lorde of the vylayne was indetted to the testatour in a certayne some of money the whiche is not payde / in this case the vylayne as executour to the testatour shall haue an accyon of Det agaynste hys lorde because he shall nat recouer the Dette to hys proper vse / but to the vse of the testatour. Cap. xl. whan the vylayne shall haue accyon of Det or trespas. agaynst hys lorde

¶Also the lorde maye nat take out of the possessyon of suche a vyllayne that is executour of the deades goodes / and if he do the vylayne as executoure shall haue an accyon of Trespasse agaynste hys lorde for the same goodes so taken and recouer damages to the vse of the testatoure. But in all these cases it behouethe the lorde whiche is defendaunte in suche accyons to make protestacyon that the playntyfe is hys vylayne / or elles yᵗ vyllayn shal be fraudyfed thoughe the matter be founde for the lorde agaynste the vyllayne as it is sayde. Protestacyon.

¶Also yf a vyllayne sue an accyon of trespace or other accyon agaynste hys lorde

lorde in one shyre/and the lord sayth y
he shall not be answered for that he i
villayne regardaunt to hys manour
in a nother shyre/& the playntyfe sayth
that he is franke and of free estate an
Triall of villenage. no villayne/thys shall be tryed in th
shyre where the playntyfe hath contry
ued hys accyon/ and not in the shyr
where the manoure is and thys is u
fauor of lyberte as it is adiudged. 11
xi. E.iii. And for thys cause was mad
a statute in the .ix.yere of Kychard
the seconde/ the tenure of whiche en
sueth in suche forme.

The wordes of the statute ¶Also for that where many villainy
and nyes as well of great lordes as
other folke spyrytuall or temporall sue
and go in to cyties and places fraun
chysed as the cyte of London and othe
lyke places/and sayne dyuers sutes a
gaynst theyr lordes because they wol
make them selfe to be enfraunchysed
it is accordyd and Assented that th
lordes nor none other shall be forbar
red of theyre villayns because of their
answere in the lawe. By force of wh
the statute yf any villayne wyll sue
any

any maner of acepon to hys owne vse Cap.xl.
in any shyre where it is harde to trye.
er. agaynste hys lorde / hys lorde maye
chose to plede that the playntyfe is hys
vyllayne / and to plede a nother matter
in barre / & yf they be at yssue & the issue
be founde for the lorde / thā the vyllayne
is vyllayn as he was before by force of
the same statute. But yf the yssue be
founde for the vyllayne than is the vyl
layne franke and free for that the lorde
toke not for hys plee that the vyllayne
was hys vyllane / but toke it by protes
tacyon.

¶ Also the lorde maye not mayme hys
vyllayne / for yf he mayme his vyllaine
he shall of that be endyted at the kyn
ges sute. And yf he be of that attaynt / where
he shal for that make greuous fyne and fore a
ransome to the kynge. But it semeth vyllaine
that the vyllayne shall not haue by the maye
lawe any apele of mayme agaynste his nat sue
lorde / for in apele of mayme a man shal an ap
not recouer but his damages. And yf pell of
the vyllayne in that case recouer dama maime
ges agaynst his lord & hath therof cre agaynst
cuyō / the lorde may take that / that the hys
vyllayne lorde.

Cap. 81. vyllaine hathe in execucyon fro the vy
laine/ & so the recouere standeth voyd
¶ Also if the vyllayne be demaunded
in an accyon toyall or playntyfe in
accyon personall agaynste hys lorde
the lorde wyll plede in dysabilite of hi
persone he maye nat make playne de
fence/but he shall defend but the wron
and the force and demaunde iugement
yf he shall be answered/ and shewe hy
matter by and by howe he is vyllayn
and demaunde iugement yf he shall
answered.

Non habilite villain

Also .vi. manner of men there be
gaynste whome if they sue accyons.
Iugement maye be asked yf they sh
be answered . One is where the vy
layne sueth an accyon. ex. agaynste hi
lorde/as in case aforesayde . The se

An outlawe

conde is where a man outlawed vpo
an accyon of Dette or trespas/or vpo
any other accyon or indytemente/ th
tenaunt or the defendaunt maye shew
all the matter of the recorde and th
outlawry/and demaunde iugement
he shall be answered bycause that he
out of the lawe to sue any accyon du

kynge the tyme that he is outlawed. Cap.xi.
The thyrde is where an alyene borne but of the allegyaunce of our soueraygne lorde the kynge yf suche alyen sue any accyon royall or personall/the tenaūte or defendaunte may saye that he was borne out of the kynges allegyaunce and aske iudgemente.yf he shall be answered. The fourthe is where a man by iugement gyuen agaynst hym vpon a wryt of premunire facias .xx. is out of the kynges protection/yf he sue any accyon and the tenaunt or defendaunt shewe all the recorde agaynste hym/he may aske iugemente yf he shall be answered for the lawe & the kynges wryt is bene the thynges by whiche a man is protecte and holpen/ and so durynge the tyme that a mā in suche case is out of the kynges protectyon he is out of helpe and protecte by the kynges lawe or by the kynges wryt.

An alie borne.

A man condemned in premynire.

The fyfthe is where a man is entred & professed into religiō/yf suche a person sue an accyō/the tenaunt or defendaunt may shewe that sache one is entred into religyon in /suche a place

A religyous man.

Cap. xi.

into the order of Saynte Bennet and is there a monke professed / or in the order of fryers mynours or preachers and is there a fryer professed / and so of other orders of religyon .&c. and after iudgemente if he shalbe answered / and the cause is for thys that when a man entreth into religyon and is professed he as deade in the lawe. And his sonne or nexte cosyn in contynent shal ioyne hym as well as thoughe he were deade in dede / and whan he entreth into religyon he may make his testamente and hys executours / and they maye haue an action of Det due to him before his entre into religyon or any other accyon that executours may haue if he were deade in dede. And yf he make none executours whan he entreth into religyon / than the ordynary maye comyt the admynystracyon of his goodes as other as if he were dead in dede.

A man excommunicate.

The .vi. is where a man is accursed by the lawe of holy churche and he sueth an accyō to all or personal / the tenaūt or defendaunt maye plede that he that sueth is accursed / & all this it be howeth

by a

hym to shewe the bysshops letters vn-
der hys seale wytnessynge the accur- Cap.xi.
synge and aske iugement yf he shalbe
answered.&c. but in thys case yf the de-
maundant or playntyfe can nat deny
it/ the wryt shall nat abate/ but the iu-
gement shalbe that the tenaunt or de-
tendaunt shall go quyte wythout day
for thys that whan the demaundaunte
or playntyfe hathe purchased hys let-
ters of absolucyon and shewed them
to the court/ he may haue a resomons
or a reattachement vpon hys orygy-
nall after the nature of hys wryt.&c.
but in the other cases the wryt shall a H.xi.
bate.&c. yf the matter shewed may not K.ii.
be gayne sayde.

¶ Also if a vyllayne be made a seculer
preste yet hys lorde may sease hym as
hys vyllayne and sease his goodes.&c.
But it semeth / yf the vyllayne entre
into religeō & is professed .&c. that the
lorde may nat take hym nor sease hym
for that he is dede in the lawe. And no-
more thā if a free mā may take a wife vp
hys wife ye lorde may not take ne sease
the wyfe of the husbande. But hys

Cap. xi. remedy is to haue an accyon agaynste the husbande/for that he toke his wyfe to wyfe without hys wyll and lycence. And so maye the lorde haue an accyon agaynste the Souerayne of the house that taketh and admytteth hys vyllayne to be professed in the same house without lycence and wyll of his lorde. &c. and shall recouer hys dammages to the value of the vyllayne/for he that is professed monke. &c. shall be a monke and as a monke shalbe taken for terme of hys lyfe natural excepte he be dyscharged by the lawe of holy church/and by is holden by hys religyon to kepe hys clouster/and yf the lorde may take hym out of hys house / than he shulde not lyue as a deade person nor after his re-

The fauoure of religiō. lygyon whyche shulde he in contynuall. &c. For if there be wardyn in chyualry of body and of lande of a chylde within age / yf the chylde whan he cometh to the age of.xxiii. yeres entre in to religyon and is professyd / the wardeyn hathe none other remedy as to the warde of the body/but a wryt of rauysshement of warde agaynst the souerayne

of the

of the house. And yf any heyre of full age that is coyne and heyre vnto the chylde enter into the lande / the warde hath no remedy as to the warde of the lande bycause that the entre of the heyre of the chylde is lawefull in suche case. Cap.xl.

Also in many dyuers cases the lorde maye make manumyssyon and enfraunchesynge to his vyllayne. Manumyssyon is properly whā the lorde maketh hys dede to hys vyllayne to enfraunchyse hym by thys worde manumittere whiche is as muche to say / as extra manum Et extra potestatem alterius ponere / as to put hym out of the handes and the power of another. And for thys that by suche a dede the vyllayne is put out of the handes power of hys lorde / it is called manumyssyon. And so euery maner of enfraunchesynge made to a vyllayne may be sayde a manumyssyon. Also if the lorde make to hys vyllayne an obligacyon of a certayne sum of money or graunte vnto hym by his dede or an annuyte / or lette hym by his dede landes or tenemēts for Manumyssio explicita. Manumyssio implicita.

Cap. xi. terme of yeres/the vyllaine is enfraū-chysed. Also yf the lorde make a feoffe-ment to hys vyllayne of any landes or tenementes by dede or without dede in fee symple/fee tayle or for terme of yeres/ and delyuereth vnto hym the seysyn/thys is an enfraunchysyng/but yf the lorde make to hym a lese of landes or tenementes to holde at the wyll of the lorde by dede or without dede thys is no enfraunchysynge / for that he hathe no maner of certaynte nor suerty of hys estate / but that the lorde may put hym out when he wyll. Also yf the lorde sue agaynste hys vyllayne / a principi Quod reddat/ yf he recouer or by nonsuyt after apperaunce / thys is a manumyssyon / for thys that he may lawefully entet into the lande without suche suyt. In the same maner it is yf he sue agaynste hys vyllayne an accyon of det/or of accompte /or of couenaunt or of trespas/or suche other/thys is an enfraunchysynge .&c. for thys that he maye enpryson hys vyllayne and take hys goodes without suche suyt. But yf the lorde sue his vyllayne by appele of felony

No enfranchysynge. Cauſſa

Manumyssiō Cauſſa Enfrā. Cauſſa

None enfran.

felony /thys is none enfraunchysynge to the vyllayne thoughe the matter of the appele is founde agaynst the lorde Cap.xl. Caulla
bycause that the lorde maye nat haue the vyllayn hanged without such sute. But yf the vyllayne were nat endyted of the same felony before the appele su ed agaynst hym and is acquyted of the felony so that he recouer damages agaynste the lorde for the false appele. And i thys case the vyllayne is enfraūchised bycause of the iudgement of damage that was gyuen to him agaynst hys lorde. And more cases and matters there be/ by the whiche a vyllayne maye be enfraunchysed agaynste hys lorde. Sed de illis quere. Also yf a lorde of a manoure wyl prescrybe that it hathe ben accustomed within hys manoure tyme out of mynde that euery tenaunt w^in the same manour that maryeth hys doughter to any man w^out lycence of the lorde of the manour shal make fyne to ꝑ lorde for the tyme beige thys scryptyō is voyde for none ought to make such fynes but only vyllaynes

Enfrā. Irrita pre scriptio

Cap. x. i.

for euery free man may frely mary his doughter to whome it plaseth him and hys doughter. And by cause that thys prescrypcyon is agaynste reason/ sucha prescripcyon is voyde. But in the shyre of Kente of landes holden in Gauelkynde where by the custome/ and tyme out of mynde/ the chyldre males ought euenly to enherite/ thys custome is lowable/ for thys that it is with some reason by cause that euery sonne is as greate a gentyman as the elder sonne/ and by cause of that more greate honoure and valoure shall growe than he hade not big by hys auncestres/ whan paduenture he myght nat so growe. &c.

The custome of gauelkynge.

Also where by custome called borough Englysshe in sum borough the ponger sonne shall enherite all the tenementes. &c. Thys custome also standeth with reson by cause that the ponger sonne if he lache father and mother by cause of hys ponge age maye leste of all hys brethern help hym selfe. &c. But yf a man wyll prescrybe that if any cattel were ypon the demenes of hys manoure there poynge damage/ that the lorde

The custome of borough englysh Antiqua prescripcio.

lorde of the manoure for the tyme beig hath vsed hym to dystrayne them/and the dystresse to retayne tyll fyne were made to hym for the damages at hys/ wyl/this prescrypcyō is voyde bycause it is agaynste reason that if wronge be doue to a man/that he therof shulde be hys owne iudge for by suche waye if he had damage but to the value of an halfpeny he myght assesse and haue therof an .C.li. whiche shulde be agaynste all reason/and so suche prescypcyon or any other prescrypcyō vsed yf it be agaynst all reason/this ought nat nor wyl nat be alowed before Iudges. Quia magis vsus abolendus est. Cap.lix.

¶ Rentes. Cap.lxi.

THere manet of Rentes there be. That is to saye/ Rent seruyce/ Rene charge/& rent secke. Rent seruyce is where a mā holdeth his lande of hys lorde by fealte and certayne or by other seruice and certayne Rent. ¶Or by homage fealte and certayne Rent. And if rent seruice at any day p^t it ought to be payd/behynde the lorde may distrayne for that of comon ryght Ca.xli. Diuisio ✱Rent seruice.

Ca.xii. Andyf a man nowe wyll gyue landes or tenementes to another in the tayle yeldyng to hym certayne Rent by dede of comon ryght maye dystrayne for the Rent behynde/thoughe that suche gyfte was made wᵗout a dede/bycause that suche Rent is rent seruyce/ but in suche case where a man vpon suche a gyfte or leafe wyll reserue to hym rent seruyce. It behoueth that ᵖᵉ reuercyon of the landes and tenementes be in the Donour or in the lesseure/for yf a man wyll make a feoffement in fee/ or wyll gyue lādes in the tayle the remaynder ouer in fee symple without a dede reseruynge to hym certayne Rente / suche reuercyon is voyde / bycause that no reuercyon is is the Donour, and such a tenaunt holdeth his lande immediatly of the lorde of whom his donour helde. And thys is by force of the estatute of westm.iii.Ca.i. Quia emptores terrarum. For before ᵖᵉ same estatute if one made a feoffement in fee simple by dede or without dede yeldynge to hym & to hys heyres certayn rent/this was rent seruyce/& for thys he myght dystrayne of comon ryght. And yf he made no re-

& The comon lawe by fore the statute.

nercyon of any rent nor of any ſcrupce/ yet the feoffe holde of the feoffour by ſuch ſeruices as the feoffour helde euer of hys lorde nexte avoue. But if a man by dede endentyd at a day/make ſuche a gyfte in the tayle the remaynder ouer in fee. ſc. or a feoffement i fee/ & by the ſame endenture reſeruethe to hym & to hys heyres a certayne Rent/ & that yf the rent be behynde that it ſhalbe leful to hym and to his heyres to diſtrayne. ſc. ſuche Rent is rent charge/ bycauſe ſuch lādes & tenementes be charged of ſuche diſtres by force of the wryttynge only/ & nat of comon ryght. And if ſuch a man in ſuch a dede endentyd/ reſerue to hym & to hys heyres certayne Rent without any ſuch clauſe ſet or put i the dede that he may diſtrayn. ſc. thā ſuch Rent is rent ſecke/ bycauſe that he can nat diſtrayne to haue the Rent if it be denyed by the ſame diſtres/ and yf he was neuer ſeaſed i thys caſe of the rēt/ he is without remedy as ſhalbe ſayde hereafter. Also if a man ſeaſed of cer tayne lande graunte by hys dede Poll or by endenture a yerely rent yſſuynge out of the ſame lande to another in fee

Ca.xii.

Rent charge

& Rent ſecke.

Ca.xii. symple or in fee tayle or for terme of lyfe .&c. wyth clause of dystresse .&c. then that is rent charge/ and if it be without clause of dystresse/ than it ys rent seche/ & note well that rent seche Idem est quod redditus siccus and for that/ that no dystresse ys incydent to it. Also if a man graunte by hys dede to a nother and the rent ys behynde/ the graunte may chose if he wyll sue a wrypt of annuite of it agaynst ye graũtour or dystrayne for the rent behynde and the destresse to withholde tyll he be of that payde. But he may not do and haue bothe together for if he take a wrytte of annuyte than the lorde ys dyscharged. And if he sue not a wryt of annuyte but destrayne for the arrerages and the tenaunte sueth a replegiare .&c. and the graunte auoweth the takynge of the destresse in the lãde. &c. in court of recorde/than is the land charged/and the persone of the graũtour dyscharged of an accyon of annuyte.

☞ Annuite.

Estoppell.

¶ Also if a mã wyll that a nother shall haue rent charge yssuynge out of the landes/

lond; but he wyl not pt his pson shalde charged i a maner by a writ of annuite than he may haue suche a clause in the ende of hys deade. Prouiso semp quod presens scriptum nec aliquod in eo specificato non aliqualiter se extendat ad onerandum personam meam per breue de annuali redditu. Sed tantum modo adonorandū tantā tenementa pdicta de annuali redditu predicto. And than is the lande charged and the person of the grauntoure dyscharged. Ca.xii.

Prouiso.

Also yf a man make suche a dede in suche maner that yt. A. ok. B. be not yerely payde at the feest of Chrystmas for treme of hys lyfe of.xx.s. of lawful money / that than it shalde lefull to the sayde. A. ok. B. to dystrayn for it in the manour of. F. &c. Hys is a good Kent charge / bycause that the manoure is charged of the Kent by way of distres / And yet the persō him selfe that made such a dede is dyscharged i this case of an accyon of annuyte bycause that he graunted not by his dede any annuyte to the sayde. A. ok. B. but graūted only pt he may dystrayne for hys annuyte.

Also

Ca.xii.

¶ Also if a man haue a rent charge to hym and to his heyres/yssuynge out of certayne lande / yf he purchace any parcell of the lande to hym and to hys heyres / all the rentes ys extynct and adnulled by cause y^t rent charge may not in suche maner be apporcyoned/ but yf a mā that hath rent serupce purchace parcell of the lande wherof the rent ys thys shall not extynct all but for the porcyon for the rent serupce in suche case maye be apporcyoned and shall be apporcyoned after the value of the lande/but if a tenaunt holde hys lande by serupce to pelde to hys lorde percly at suche a feeste an hors or an hauke / or suche thynge semblable/if in suche case the lorde purchace parcell of the lande /the serupce ys gone bycause that suche serupce may not be seuered nor apporcyoned / but yf a man holde hys lande of a nother by homage / fealte and escuage/and by certayne rent/ if the lorde purchace parcel of ye lande. &c. In that the rent shalbe apporcyoned as ys aforesayde /but yet in thys case the homage & fealte abydeth hole to the lorde/for the lorde shall haue the

Extinguisshemente.

homage and fealte of hys tenaunt for the remenaunte of laudes and tenementes holden of hym as he had before.sē.for hys that suche seruyces be no auncyent seruyces and may not be appoꝛcyoned .But the eſcuage may shalbe appoꝛcyoned after the quantite and rate of the laude. Cl.xii.

¶Also yf a man haue a rent charge/ and hys fader purchaſeth parcell of the tenementes charged in fee and dyeth/ and that parcell dyſcendeth to his ſon that hath the rent charge/nowe hys rent charge ſhalbe appoꝛcyoned after the value of the laude as is afoꝛeſayde of Rente ſeruyce becauſe that ſuche a poꝛcyon of the laude purchaſed by the father comethe not to the ſõne by hys owne dede but by dyſcente and courſe of the lawe. Rent charge appꝛoctioned.

¶Also yf there be loꝛde and tenaunte/ and the tenaunte holdethe of hys loꝛde by fealte and certayne Rent/ and the loꝛde graunteth the rent by his dede to another.pē.reſeruing to him the fealte & the tenaũt attorneth by the graũt of the rent/nowe ſuch rent is rente ſecke to the graũt/for hys that ye tenementes

Ca.xii.

be not holden of that graunte of the Rente /but be holden of the lorde that receyueth to hym fealte. And in the same maner it is where a man holdeth hys lande by homage /fealte /and certayn Rente/if the lorde graunt the rent sauyng to hym the homage/suche rent after suche graunte is Rente secke/but where landꝭ or tenementes ben holden by homage /fealte /& certayne Rente if the lorde wyl graunt ꝑc homage of his lande by hys dede to a nother sauyng to hym the remenaunt of the seruyces and the tenaunte attornethe to hym after the fourme of the graunt now in thys case the tenaũt holdeth hys lande of the graunt /& the lorde that graunteth the homage shal not haue but the Rent as rent secke/ and shall neuer distrayn for the Rent/for this ꝑt neyther homage/nor fealte nor Eſcuage may be sayde secke/for he that hath or ought to haue of hys tenaunte Homage/ or fealte/& Eſcuage/may of comon ryght distrayne for it / ꝑt if he be beyonde / the homage /fealte/ and Eſcuage ben seruyces by whiche landes & tenementes

Nota.

be holden/and ben suche that in maner maye be taken but as serupces. But o-therwyse is of rente that was ons rent serupce/ for thys that whā it is seuered &c. by the graunte of the lorde fro the other serupces/it may nat be sayde rent serupce/for thys that he hathe nat to it tealte/whyche is incydent to curry ma-ner of Rente serupce/ and for thys it is sayde rent Sethe.

Ca.xii.

¶ Also yf a man let lande to another for terme of lyfe reserupnge to hym cer-taine Rent/yf he graunt the rent to an other saupnge to hym the reuercyon of the lande so letten by hys dede.&c.such rent is but rent secke/for thys that the graunte hathe nothynge in the reuer-cyon of the lande.But if he graunt the reuercyon of the lande to another for terme of lyfe & the tenaunt attourneth &c. than hath the graunte the Rent as rent serupce/bycause he hath the reuer-cyon for terme of lyfe. And so it is to be vnderstande that yf a man gyue landes or tenementes in the tayle reserupnge to hym and to hys heyres certayne rent or ley lande for terme of lyfe reserupng

Ca.xii. certayne rent/if he graūt the reuercion to another/ and the tenaunt attorneth all the rent and scruyce passe the by the worde of the graunt of reuercyon/ for this that all the rent & scruyces in such case be incydentes to the reuercyō and passe by the graunt of reuercyon. But thoughe he graunt the rent to another the reuercyō passeth nat by such graūt &c. And so note well the diuersite. And it is holden. ꝑ.xii.E.iiii. But it is adiudged. An. xxvi. li. Assisarū/ where as the scruyces of the tenaunte in tayle were graunted /that that was a good graunte/yet nat withstandynge the reuercyon remaynes.

¶ Also if there be lorde mesne & tenaūt and the tenaunte holdeth of the mesne by the Kent of. v. s. and the mesne holdeth ouer by .xii. s pe the lorde aboue purchase the tenauncy in fee /then the scruyce of the menalte is extynct for thys that whan the lorde aboue hathe the tenauncy / he holdeth of the lorde next aboue hym .And pe he ought to holde it of hym that was mesne/ than

Marke. he shulde holde one selfe tenauncy im-

mediatly

medyatlye of dyuers lordes wyfeye Ca.xli.
ſhulde be inconuenyent / and the lawe
wyll ſoner ſuffre a myſchefe for that
than an inconuenyence and for thys
the ſeygnory of the menalte is extincte
but in ſo muche that the tenaunt helde
of the meſne by .v.ſ.s the meſne helde
but by .xii.d.ſo that he had more auan
tage by .iiii.ſ. than he paydeto hys
lorde/ye ſhall haue the ſaydе.iiii.ſ. as
a Rent ſeeke perely of yᵉ lorde that pur
chaſed the tenaunty. ☞ Re
Alſo if a man that hathe Rent ſeeke medy.
is ones ſeyſyd of any perce of the rent
and after yf the tenaunt wyll nat paye
the rent that is behynde/thys is his re
medy. It behoueth hym to go by hym
ſelfe or by another to the landes and
tenementes wherof the rent is iſſuyng
and there to demaunde the arrerages
of the Rent / and yf the tenaunte denye
to paye it/thys denyeng is a diſſeyſyn
of the rent. • Alſo yf the tenaunte at
the tyme be nat redy to pay it/this is a
denyeng s a diſſeiſin. Alſo if the tenaũt
or none other be dwellynge vpon the

Ca.xii. landes or tenementes whan he asketh the arrerages.ꝛc.thys is a denyeng in lawe and a disseysyn in dede/ and of suche disseisins he maye haue an assise of nouel disseisyn agaynst the tenaunt and recouer the seysyn of the Kent and the arrerages and hys damages and costes of hys writte and of hys plee.ꝛc. And yf after suche recouere the rent be another tyme denyed hym/tha he shall haue a redisseysyn and recouer double damages. And it is to be had in mynde that this name assyse is Equinoctium. For sum tyme it is taken for a iure/ for in the begynnynge of the recorde of assyse of nouel disseysyn the recorde shall begyn thus(Assisa ven recogn) whiche is to saye that Iuratores ven recogn/ and the cause is for thys that by the writte of assyse it is cõmaunded to the shyryfe qõ faciat.xii. liberos & legales homines de vicineto.ꝛc. videre tenemẽtũ illud & nomina eorũ inbreuiari/& quod sum̃ eos/p bonos sum̃ q sint coram iustic tuis.ꝛc.pati ide facere recogn.ꝛc. And for thys that by force of suche an ordynaunce writte a panell by force of the same writte

Assysa. Equinoctium.

wrytt ought to be returned. &c. it is said in the begining of the recorde in assyse/ Assysa ben recogñ. &c. Also in a wrytt of Ryght it is comonly sayde that the tenaunt may put hym in god and in the great assyse. &c. Also there is a wrytte in the Regystre called de magna Assysa eligenda /so is thys a good proffe that thys name assyse sõtyme is put for the iury/and sõtyme it is taken for all the wrytt of assyse/ and after ye entent it is most properly & most comõly taken as assyse of nouel dysseisyn is taken for al the wrytt of assise of nouel dysseisin. In ye same maner assyse of comõ pasture is taken for all the wrytt of assyse of common pasture & assyse of mortdaũcestre and assise of darrayn ꝑsentmẽt. &c. but it semethe that the cause is why suche wryttes at the begynninge were called assyses/ for thys y^t by euery suche wrytt it is cõmaunded to the shyryfe that he somon. xii. &c. whych is as much to say that he ought to somon a iury. &c. and sometyme assyse is taken for an ordynaũce for to set certayne thynges in a certayne rule & dyspositiõ/ as an ordy

Ca. xiii.

Fo. xlii.

naunce that is entred in the auncyent
statutes is called Assyse pains & seru
cie. Also if there be lorde and tenaunte
and the lorde graunteth the rent of hys
tenaunt by dede to a nother sauyng to
hym the other seruyce, and the tenaunt
attorneth, thys is a Rent seeke as it is
aforesayde. But if the rent be denyed
hym at the nexte daye of payment, he
hath he no remedy for thys that he hath
nat ther of any pollecyon. But if the
tenaunt whā he attorneth to the graūt
or after wyll gyue a peny or an halfe
peny to the graunte in the name of seyn
syn of rent, than yf after at the nexte
day of payment the rent be denied him
he shall haue Assyse of nouel dyssesyen,
and so it is yf a man graunte by hys
dede a yerely rent yssuynge out of hys
lande to a nother. &c. If the grauntour
than after paye to the graunte .i.e. or
an halfepeny in the name of seysyn of
the rent than after the fyrst day of pay
ment the rent be denyed, the graunte
may haue assyse or els nat. Also of rent
seeke a man may haue Assyse of mor
dancestor or a wryt of ayde or cosinage
and all other maner of accyons reals

Seysen
Rent
seeke.

as the case lyeth as ye maye vane of any other rent. Ca.xii.

¶ Also there be.iii. causes dyssesyn of Rent seruice/that is to say rescous /trespeuyn /& enclosure. Rescous is whan the lorde dystraynyth in the lande holden of hym for hys rent beyonde yt the dystresse be rescued fro hym/or ye lorde come vpon the lande and wolde dystrayne and the tenaunt or a nother man will not suffre hym.&c. Repleuen is whan the lorde hath dystrayned /& repleuen is made of the dystresse by writ or by playnte .&c. Enclosure is yt the landes and tenementes be so enclosed that the lorde may not come within ye lande and tenementes for to dystrayne & the cause why suche thynges so done be dyssesyns made to the lorde /is for thys by suche thynges the lorde is dystorbed of ye meane by which he ought to haue come to hys rent. And.iii. causes be of dyssesyn of rent charg /yt is to say rescous/repleui/enclosur/& denier/ for denyeng is a dyssesyn of Rēt Charge as it is aforesayd of Rēt secke/& ii. causes be of dyssesyn of rēt secke/yt is to say

¶ The maners of dessesyns

I.iiii. enclosure

Ca.xii. enclosure/is denier/& yet it semeth that ther is another cause of difficulyn of all the .iii. rentes afore sayde/that is whē the lorde is goyng to the lāde holden of hym for to dystrayne for the rent being behynde/& the tenaunt beryng thys countreth hym and forstalleth hym the way with force & armes/and manaseth hym in suche forme / he dare nat come to the lāde for to dystrayn for hys rent behinde. &c. for doubte of deth or bodyly hurte/thys is a difficulyn for thys / the lord is disturbed of the meane whereby he ought to come to hys rent/& so it is yf by suche forstalling and manasyng he that hath rent charge or rente seche is forstalled or dare nat come to the lande to aske the rent behynde.

¶ The thyrde boke.

Parceners. Ca.i.

Cap.i Diuisio Parceners by the comune lawe.

PArceners be in.ii. maners that is to say parceners after the course of the comon lawe/and parceners after the custome. parceners after the course of the comon lawe be where a man or a woman be seased of certayne landes or tenementes in fee symple or fee tayle

tayle and hathe none issue but doughters & dyeth and the tenamentes dyscende to the doughters / & the doughters enter into the landes and tenemētes so to them descended / than they be called perceners & be but one heyre to theyr aūcestre / and they be called perceners for thys that by the wrytte that is called. Breue de partitione faciēda the lawe wyll constrayne them that partitiō shalbe made among them / and yf there be .ii. doughters to whome the lande descendeth then they be called .ii. perceners / and yf they be iii. doughters / they be called .iii. perceners / and .iiii. doughters .iii. perceners & so forth / and yf a mā seased of landes in fee symple or in fee tayle & dye without yssue of his body / and the tenemētes dyscende to his systers / they be perceners as is aforesayde. In the same maner it is wher he hath no systers but the lande dyscendeth be to hys auntes / they be perceners / but yf a man haue but one doughter she may not be sayde perceuer but doughter and heyre. And it is to wyt that betwyne per-

Cap.i.

Dyuers maners

Cap.i. maye be made in dyuers maners / one is whan they agree to make partycyō and make partycyon of the tenemētes as if there be.ii.perceuees to deuyde bytwene them the tenementes in.ii.partes euery parte by hi selfe in seuerallte of euen value / and if there be.ii.parteners to deuyde the tenementes in.iii. partes in seuerallte A nother partycyō there is to chose by agrement betwene them and certayne of theyr frendes to make the partycyon betwyne them of the landes and tenemētes in the forme aforesayde. And in suche cases after suche partycyon / the elder doughter shall chose fyrst one of the partes so deuyded whych she wyl haue for her part And than the seconde doughter after her a nother parte .&c. yf it so be that there be many systers .&c. yf it be not that they ne be otherwyse agreed betwene them / for it maye be agreed betwene the y^{t} one of them shal haue such tenemeutes & a nother suche tenementes .&c. without any suche fyrste electcyon / and the parte that the elder sister hath is called in latyn cuttia pars / but

Cuttia pars.

if the

If the parceners agree that the elder sis- Cap.i
ter shall make partycyon of the tene-
mentes in the forme aforesayde / and if
she do / thā it is sayde that the elder syst-
ter shall chose the laste parte after eche
of her other systers. A nother partycyō
and a lottyng therē is as if ther be.iiii.
parceners and after suche partycyon
made of the landes / euery parte of the
lande is by it selfe wrpten in a lytell
scrowe and is couered all in were in
maner of a lytell ball so that no man
may se the scrowe / than is the.iiii. ba-
lles of were put in a Bonet to kepe in
the handes of an indyfferent man / and
then the elder doughter fyrste shall put
her hand in the bonet which shall take
a ball of were and the scrowe within
the same ball for her purpesty / & than
the seconde syster shall put her hande
in the Bonet and shall take a nother /
and so the the thyrde syster the thyrde
ball &c. and in thys case it behoueth
eche of them to holde them to theyr
chaunce and alotment.

Also a nother partycyon there is
as yf there be.iiii. parceners and

they

Cap. i

they wyll not agre that pertycyon shal be made betwene them / than one of them maye haue a wryte de pticipatione faciendâ agaynste the other .iii. systers/ or .ii. maye haue a wrpt of pticipatione faciendâ agaynst the other or the .iii. agaynste the .iii. at the elecyon/ and whan iudgement shall be gyuen vpon suche a wrpt/ the iudgement shalbe suche the pertycyon shalbe made betwne the partyes and the shyryfe in hys proper person go to the landes and tenementes .&c. and that he by the oth of .xii. true men of hys bayly wyth &c. shall make pertycyon betwene the partyes the one partye of the same landes shalbe assygned to the playntyfe or to one of the playntyfes / and another parte to another .&c. nat makynge mencyon in the iudgemente of the eldeste syster more than of the yongeste / and of the partycyon that he hathe thys done he shall make notyce to the Justices .&c. vnder his seale and the seales of the .xii &c. and so in thys case may yefe that the elder syster shall not haue the fyrste alecyon .&c. but the

Jnd gemẽt.

shyryfe

thyrde shall assygne the parte that he shall haue. xl. and it maye be that the thyrde wyl assygne fyrst a parte to the ponger syster and the laste parte to the elder/ And note well that pertycyon by agremente betwyne percyners may by the lawe be made amonge them aswel by worde without deade as by dede. Capit.

¶ Also yf .ii. mesis dyscende to .ii. percyners /and the one mese is worthe by yere .xx. s̄. and that other but .x. s̄. by yere/ in thys case pertycyon maye be made betwene the in suche forme that the one percyner shall haue ye one mese and the other percyner shall haue the other mese /and he that shall haue the mese of .xx. s̄. and hys heyres shall pay a yerely Rent of .v. s̄. yssuynge out of the same mese to the other percyner & to hys heyres for euer/ because that euery of them shall haue euen in value/ and suche partycyon made is good ynough /and the same percyner that shall haue the rent of .v. s̄. and hys heyres may dystrayn for the rent of comō ryght in the same mese of the value of xl. s̄. yf the rent of .v. s̄. be behynde at ✠M.3. E.iiii. ✠Rent charge

any

Cap.i. ☞ Dyl treyned by co. mon ryght.

any tyme in whose handes so euer the same mese cometh though there was neuer writtynge made of it betwene them / in the same maner it is of partycyon of all maner of landes and tenementes.&c. where suche Rent is reserued to one or to dyuers parceners vpō suche partycyon.&c. but suche reuers not Rent scrupce / but is rent Charge of comon ryght made and reserued for egalty of the partycyon. And note well that none be called parceners by the comon lawe but women or the heyres of women / and whiche come by landes and tenementes by dyssente / for yf systers purchase landes or tenementes of thys they bene called Joyntementes and not parceners. Also yf.ii. parceners of lande in fee symple make partycyō betwene them.&c. and in the parte of that one valueth muche more than the parte of the other / yf they were at the tyme of partycyon of full age / that is to saye of.xxi. yere / than they alway shall abyde and neuer be deiected / but yf tenementes whereof be made partici ons be to thē in fee tayle / the parte of

that

that one hath is muche better in perely
value thā the parte of the other. How
be it yᵗ they be excluded duryng theyr
lyues to defete the partycion/yet if the
parcener that hathe the lesse parte in
value hathe yssue and dyeth/the yssue
maye dysagree to the partycyon and
enter and occupy in comon that other
parte that alotted to her aunte/ and so
the aunte may enter & occupy in comō
yᵗ other parte alotted to her syster as
no partycyon therof hade be made. ¶.
¶ Also yf. ii. parceners of tenementes
in fee take husbandes and they & theyr
husbandes make partycyon betwene
them yf the parte of the one be lesse in
perely value thē the parte of that other
duryng the lyues of the husbandes the
partycyon shalbe in his force and stren
gth yet after the dethe of the husbande
the wyfe that hathe the lesse parte. ¶.
the same wyfe or woman may enter in
her systers parte as it is aforsayde & de
fete yᵉ partycyon/but if the particiō so
made bet wen thē were such yᵗ at tyme
of lot mēt were egal of perely value thā
it maye nat after be defeted i such cases
Also

Cap.l. ¶Also yf they? be.ii.perceners and y' yonger of them be within the age of. xxi.yere / and pertycyon is made bytwene them so that the parte that is alotted to the yonger is lesse in value then the parte of that other. In this case the yonger durynge the tyme of her nonage / and also whā she cometh to full age of.xxi.yere may entre in the porcyon of her syster alotted .sē. and

Cautio. dyscete the partycyon/ but suche a perceuer ought to take yede whan she cometh to full age that she ne take to her owne vse all the profytes of that tenementes to her alotted / for that she agreeth to the pertycyon at suche age in whyche case the pertycyō shal stande and abyde in hys force and strengthe. sē.but paraventure the profytes of the halfe she maye take /leuynge the profytes of the other halfe to her syster. sē.yet it is to wyt that whā it is sayde

Indulgencia iuris in puplos. males and females be of full age /that shall be vnderstanded of the age of.xi. yere /for yf any feoffemente or graūt release /confyrmacyon / obligacyon or any other wrytynge before any suche

agi

age be made by any of the.ſr. or that any within ſuche age be baptyſte or receyued w^t any mā.ſr.al is for nought and may be auoyded. Also a man before ſuch age ſhall not be ſworne in no iury nor in no inquyſycyon. Also yf tenementes be gyuen to a man in the tayle whyche hathe as muche lande in fee ſymple & hathe yſſue .ii. doughters and dyeth / and the doughters make partycyon betwene them / ſo that the landes in fee ſymple be alotted to the yonger doughter in alowaunce of the tenementes tayled / alotted to the elder doughter / yf after ſuche partycyon the yonger doughter alyeneth the lande in fee ſymple to another in fee and hathe yſſue a ſonne or a doughter and dyeth / the yſſue maye enter in the tenementes tayled and them to holde in properte with theyr aunte / and thys is for .ii. cauſes / one is for that that the yſſue maye haue no remedy of the lande alyened by hys moder for y^t that the lande was to her in fee ſymple / & in ſo muche that he is of the heyres in the tayle / & hathe nothynge recompenſed of that /

Cap.i.

*Two cauſes.

Cap. l. that to hym belongeth of the tenemen-
tes tayled / and namely whan such par-
tycyon maketh no dyscontynuaunce
of the tayle as shalbe sayde here after
in the Chapiter of dyscontynuaunce.
But pᵉ contrary is holden. M. x. H. 6.
that is to say that they maye nat entre
vpon the parcener that hath hys lande
tayled / but is set to hys forme don. A
nother cause is for that / that it shalbe
arected the folp of the elder syster that
she wolde agre to the partycyon / where
she myght haue had halfe the lande in
fee symple and halfe of the tenementes
in the tayle for purparty and so to be
sure without damage. &c. Also yf a mā
seysed in a ploughe lande by iuste tayle
and dysseaseth an infante within age
of a nother ploughe lande and hathe
yssue .ii. doughters and dyeth seased
of bothe those ploughe landes / the in-
fante than beynge within age and the
doughters enter and make partycyon
that the one ploughe lande is lotted
to the purparte of the ons as parcell
to the ponger syster in alowaunce of
that other ploughe lande that alotteth

to the

to the purparte of that other / so that after the enfante entreth in pᶜ plough lande of the whyche he was dysseysyd vpon the possessyon of the parcener pᶜ hath the same plough lande / than the same parcener maye enter into that other plough lande that the syster hath and holdeth in parcenary with her / but if the ponger syster alyen pᶜ same plough lande to another in fee symple before the entre of the infante / and after the chylde entreth vpon the possessyon of the alyen than she maye not enter in the other plough lande / for thys that by her alyenacyon she hathe vtterly dysmyssed her selfe to haue any parte of the tenementes as parcener / but yf the ponger syster before the entre of the infante make thereof a lease for terme of yeres or for terme of lyfe or fee tayle sauyng the reuercyon to her / and after the chylde entreth there / parauenture it is otherwyse / for thys that she dysmyssed not her selfe of all that pᶜ was in her / but hathe reserued to her the reuercyon and the fee symple. ¶ Also yf there be .iii. or .iiii. parceners

Cap. x.

Cap.i. that make partycyon betwene them / yf the parte of one parcener be defeyd by suche lawefull entre the maye enter and occuppe the same other landes of all the other parceners / and compell them to make newe partition of the other landes betwene them. &c.

¶ Also yf there be.ii. parceners / and the one taketh an husbande / and the husbande and the wyfe haue yssue betwene them / and the wyfe dyeth / and the husbande holdeth hym in the halfe as tenaunte by the curtesye. In this case the parcener that survyueth and the tenaunte by the curtesy maye well make partycyon betwene them. &c. And yf the tenaunt by curtesy wyll not agre to make partycyon / than the parcener that survyueth may haue a wryt de pticipatione facienda. &c. and compell hym to make partycyon. But yf the tenaunte by the curtesy wyll haue partycion made betwene them and the parcener that survyueth wyl not haue it / than the tenaunt by the curtesy shall haue no remedy for to haue partycyon for he maye not haue a wryt de partici-

p.f. f.3.

pacione faciendo/ for thys that he is not parcener/for suche a writte lyethe for parceners all onely. And so may ye se that the writ de partycypacione facyenda lyethe agaynste tenauntes by the curtesy/and yet hym selfe may not haue suche a writ. Cap.i.

Parceners by the custome.

Cap.ii.

Parceners by the custome be where a man seased in fee tayle of landes or tenementes ꝑ be of the tenure called Gauelkynde within the shyre of Kent/and hathe yssues dyuers sonnes and dyeth/suche landes and tenementes shall dyscende to all the sonnes by the custome/ and they euenly shall enheryte and make partycyon betwene them by the custome as females do/ and a writ de ꝓticipacione faciendo lyethe in thys case as betwene females/ but it behoueth in the declaracyō to make mencyon of the custome/Also such custome is in other places en Englande/ & also suche custome is in northe wales. Also there is a nother partycyon that is of a nother nature and in a Cap.ii. Gauelkynde. ✠Partycyo a lia a ſuperiory bus.

Cap. ii. nother forme than any of the ptcypoñ aforesayde/ as a man seased of certayn lãdes in fee simple hath yssue .ii. doughters/ and the elder is maryed / and the father gyueth parcell of the same lãdes to the husbande with hys doughter in franke maryage and dyeth seased in hys demeasnes/ the whyche demenaunt is of more and greter value by yere than be the landes gyuen in franke maryage ¶ In thys case the husbande and the wyfe shall haue nothyng for hyer part of the sayde demenaũte/ but if they wyll put hyer landes gyuen in franke maryage in hotchepot with the demenaũt of the laude with her syster/ and if they wyll nat do so / than the ponger syster maye occupy the same demenaunt and take to her the profytes only / and it semeth that thys worde hotchepot is in Englysshe a puddynge / for in suche a puddinge is nat comonly put one only thynge/ but one thynge with a nother/ and for thys that it behoueth in suche case to put the landes gyuen in franke mariage with the other lãdes i hotchepot if the husbãde & the wife wyll haue

any

any thyng in the other remenaunt.&c. Cap.ii.
This worde hochepot is but a terme of
fymplytude/and is as muche to fay as
to put the lãdes gyuen in franke mary
age and other landes in fee fymple.&c.
togyther/ and thys is to fuche entente
to accompte the value of all the landes
that is to faye/ of the landes gyuen in
franke maryage and the remenaunte/
that was nat gyuen and than partye-
yon fhalbe made in thys forme that
enfueth. As put cafe that a man feafed
of.xxx. acres of lande in fee fimple cue-
ry acre in value.xii.d. by the yere wy-
che hathe yffue.ii.doughters /and the
one is couert baron/and the father gy
neth.x. acres of the .xxx. acres to the
hufbande with hys doughter in franke
maryage and dyeth feafed of the reme
naunt /than the other fyfter fhall enter
in the remenaunt/that is to faye in the
xx.acres & fhall occuppe it to her owne
vfe/excepte the hufbande and the wyfe
wyll put theyr.x. acres euen to them in
franke maryage with the other .xx.a-
cres in hochepot/ yᵗ is to fay to gyther
and than whã the value is knowen of

Cap.ii. euery acre / that is to say / euery acre is
verely worth .xii. ō. than the partycion
shall be made in suche forme / that is to
saye / that the husbande and the wyfe
shall haue aboue the .x. acres gyuen to
them in franke mariage .v. acres in
seueralte of the .xx. acres and that o-
ther syster shall haue the remnaunte /
that is .xv. acres of the .xx. acres for
her parte so that accomptynge the .x.
acres that the husbande and the wyfe
hade in franke mariage / and the other
.v. acres of the .xx. acres / the husbande
and the wyfe haue as muche in verely
value as that other syster hath / and so
alway vpon suche particpō the landes
gyuen in franke mariage abyde to the
doners or to theyr heyres .&c. after the
forme of the gyfte .&c. For yf the other
Parcener shuld haue no thynge of this
that is gyuen in franke mariage / of
thys shulde folowe an inconuenyence
and a thynge agaynste reason why the
the lawe wyll not suffer .&c. and the
cause why the landes gyuen in franke
mariage shall be put in hotchepot is
thys / that whan a man geueth landes

Nota

and

and tenementrs in franke marpage with hys doughter or with hys other Cosyn/it is to vnderstande by the lawe that suche gyfte made by suche wordes franke marpage is an auauncement of hys doughter or of hys cosyn /e namly whan the donour and hys heyres shall not haue any Rent nor seruyce of hym excepte fealte vnto the fourth degre be passed.&c.e for suche cause the lawe is that she shal haue no thyng of ye other landes and tenementes dyscended to the other parceners.&c. but yf she wyll put the tenementes gyuen in franke marpage in hochepot as is a foresayde and yf she wyl not put the landes gyuē in franke marpage in hochepot / than she shall haue nothynge in the remenaunt for thys that it shalbe vnderstande by the lawe that she is suffycyently auaunced / to whiche auauncemete she agreeth and holdeth her contente /and the same lawe is in thys matter betwene the donees in franke marpage and the other parceners as to put in hochepot.&c.the same lawe is betwene the heyres of the donees in franke ma-

La.lle

Ca.ll. ryage and the parceners.&c. if the dames in frãke mariage dye before their auncestres or before such partiõ.&c. as to put i hochepot &c. And note well that gyftes in franke maryage was the comon lawe before the statute of westmynstre the seconde / and alwaye after so hathe bene vsed and contynued.&c.

¶ Also suche puttynge in hotchepot. &c. is where landes or tenementes that were geuen in franke maryage dyscende fro the donours in franke maryage all onely for yf the landes dyscende to the doughters by the father the donoure / or by the mother the donoure/or by the brother the donour/ or other auncesters / nat by the donour &c. there it is otherwyse / for in suche case the to whome suche gyfte in fraunke maryage is made shall haue her part as yf no suche gyfte in franke maryage hade bene made / for thys that she was not quaunced by hym .&c. but by a nother

¶ Also yf a man seysed in .xxx. acres of lande

of lande euery acre of euen perely value Cap. lii.
hauynge in yssue two doughters as it
is afore sayde/ and geueth of thys to
the husbande of the doughter .xb. acres
in franke maryage and dyethe seysed
in the other .xb. acres/ i thys case that
other syster shall haue the .xb. acres so
dyscended to her onely/ & the husbande
and the wyfe shall not put in suche case
the .xb. acres to hym gyuen in franke
maryage in hochepot. &c. for thys that
the tenementes gyuen to hym in franke
maryage be of as good perely value
as the other landes dyscended. &c.

Fo. For yf the landes gyuen in franke
maryage were of as euen value as the
tenemaunte or of more value / than in
dayne and to none entent suche landes
gyuen in franke maryage shall be put
in hochepot. &c. for thys that she maye
haue no thynge of the other landes
dyscended. &c. For yf she shulde haue
any parcell of the other landes dyscen
ded than shulde she haue more in pe-
rely value than her syster. &c. / whiche
the

Cap.ii. the lawe wyl nat.&c. And as it is sayde in the cases aforsayde of.ii. doughters of.ii. parceners/in the same maner & in lyke cases is/where there be mo sisters after that as the case & the mater is. And it is to wete that landes and tenementes gyuen in franke marryage shal nat be put i hochepot but with the landes dyscended in fee symple/ or of landes dyscende in fe tayle/partycyon shal be made as yf no suche gyfte in franke marryage had be made. Also no landes shalbe put in hochepot with other/but lãdes that be gyuen i franke marryage all onely. For yf any woman haue any other lãdes or tenemẽtes by any other gyfte in the tayle shall neuer put suche lande so gyuen in hochepot.&c. but she shall haue her parte of the remnaunte dyscended.&c. that is as muche as the other parcener shall haue of the same remnaunt.

¶ Also a nother partycyon may be made betwene parceners that varyeth from the partycyons aforesayde/as yf there be iii. parceners and the yongest wold haue partycyon/& the other two wold nat/

nat / but wyll holde in parcenary that / that to them belongeth without partycyon. In thys case yf one parte be allotted in seuerallte to the yongest syster after that that she ought to haue than the other may holde the remnaunt in parcenary and occupy in comon without partycyon yf they wyll and suche partycyon is good ynoughe. And yf after the elders myddel parcener wyll make partycyon betwene them of that that they holde / they maye well do so what they please. But where partycyon shalbe made by force of a wryt de partitione facienda .&c. ther otherwyse it is for there behoueth it that euery parcener haue hys parte in seuerallte. &c. More shalbe sayde of parceners in the chaptre of Joyntenaũtes & also in the chaptre of tenaũtes in comon .&c.

Lap.ii.

¶ Joyntenauntes.
Cap.iii.

Lap.iii.

IJoyntenauntes be as a man seased of certayne landes or tenementes &c. and therof hathe enfeoffed two or thre or foure / or mo to haue and to holde

Cap.lii. holde to them and to theyr heyres / or to haue and to holde to thē for terme of theyr lyues/or for terme of anothers lyfe/by force of whych feoffement they be seased/suche be Joyntenauntes.

¶Also yf.ii. or.iii. dyffeyse a nother of any landes or tenementes to theyr owne vse/thā the dyffeisours be Joyntenaūtes. But yf they dyffeise anothr to the vse of one of them/than be they no Joyntenauntes/ but he to whose vse of the dyffeysyn is made sole tenaunte/and the other haue nothyng in the tenaūcy but be called coadiutours to the dyffeysin.&c. And note well that dyffeysin is yperly where a mā entreth in any landes or tenemētes where hys entre is nat leful/& putteth hym out yt hath the frāke tenemēt.&c. And it is to wete that yᵉ nature of Joyntenaūcy is that he yt survyueth shal haue only the hole tenaūcy after suche estate as he hath yf the joynture be contynued.&c. As yf.iii. Joyntenaūtes be i fee symple and the one hath issue & dyeth/yet they that survyue shall haue the tenemēts hole / and the issue shall haue nothyng

dyffeyse

Marke.

And

And yf the seconde ioyntenaunt haue yssue and dye / yet the thyrd that survyueth shall haue the tenementes hole / and shall haue them in fee symple to hym and to his heyres / but otherwyse it is of parceners / For yf .iii. parceners be / and before any partycyon the one hath yssue and dieth / that that to hym belongeth shall descende to hys yssue / yf such a parcener dye without yssue / than that / that to her belongeth shall descende to her heyres / so y^t they shall haue thys by dyscent & not by the survyuour as ioyntenauntes haue. &c. and as ye survyuour holdeth place amonge Joyntenauntes. &c. in the same maner he holdeth place amonge them that haue joynte estate or possessyon wyth other of catel royall or catel parsonal / As yf a lease of landes or tenementes be made to many for terme of yeres he y^t survyueth of the lesses shall haue the tenementes hole to hym durynge the terme by force of the same lease. And if any horse or other catell parsonal be gyuen to many mo / he that survyueth shall haue them to hym selfe.

Cap. viii.

Dyuers syte.

Cap. iii. In the same maner is of dette and dutyes .&c. For yf an obligacyon be made to many for one duty the that survyueth shall haue all dette / and so it is of all other couenauntes and contractes.

Also some Joyntenauntes may be that maye haue Joynte estate and be Joyntenauntes for terme of their lyues & yet they haue seuerall inheryteaunce As that landes be gyuen to two men and to the heyres of theyr two bodyes engendred. In thys case the doune haue Joynte estate for terme of their two lyues / and they haue seuerall inheryteaunce For if the one of the donoures haue yssue and dye / the other that survyueth shall haue all by the survyuour for terme of hys lyfe. And yf he that survyueth hathe also yssue & dye / that the yssue of the one shall haue the halfe of the lande / and the yssue of the other shal haue that other halfe of the lande and they shall holde the lande betwene them in commune / and be not Joyntenauntes but tenauntes in commune And the case that suche doneres in such

cases haue Joynte estate for terme of
theyr lyues is this/for this that at the
begynnyng landes were gyuē to them
two / whyche wordes without more
sayinge make a Joynte estate to them
for terme of theyr lyues. For yf a man
wyll let lande to another by dede or
without dede not makynge mencyon
what estate he hathe / and of thys ma-
neth lyuerey of seysyn. In thys case
the lessee shall haue estate for terme of
hys lyfe / and so in so muche that the
landes were gyuen to them / they haue
a joynt estate for terme of theyr lyues /
and the cause why they haue seuerall
inheritaunce is thys / i so muche that
they can not by possibylyte haue an
heyre betwene them engendred as a
man and a woman may haue. &c. then
the lawe wyll that theyr estates & theyr
inheritaunce shall be suche as reason
wyll after the forme and effecte of the
wordes of the gyfte / and that is to the
heyres that the one engendreth of hys
body by any of his wyues & the heyres
that the other engendreth of hys body
by any of his wyues. &c. so it behoueth

Cap. iii.

Cap.iii. by neceſſyte of reaſon / that they ſhall haue ſeuerall inheryteaunce. And in ſuche caſe if the yſſue of one of the donees after the dethe of the doneés dye / ſo that he hathe no yſſue alyue of hys body engendred / than the donoure or hys heyre may entre in the halfe as in hys reuercyon / thoughe the other of the doners hathe yſſue alyue. &c. And the cauſe is for ſo muche that the inheryteaunces be ſeuered .&c. the reuercyon if the lawe is ſeuered .&c. ſ the inuyuour of the yſſue of the other ſhall holde no place to haue the hole / ſ ſo as it is ſayd of males / in the ſame maner it is where lãde is giuẽ to .ii. females ſ ſo the heires of their .ii. bodies begotte ¶ Alſo if lande be gyuen to .ii. females and to the heyres of one of them / thys is a good Joyntour / and the one hathe a fre holde / and the other hath ſe ſymple / and yf the that hath the fre dye / he that hath the free holde ſhall haue the hole by the ſurmuour for terme of lyfe. In the ſame maner it is where tenũtes be giuen to .ii. and to the heyres of the body of one of them engẽdred / the one hath

hath fee holde/and the other fee tayle. Ca.iii.
Alſo if.ii.iointenaũts be ſeaſed of eſtate
of freſple/and the one graũteth a fee
charge by hys dede to another out of
that/that to him belongeth.ꝛc.in this
caſe durynge the lyfe of the graũtour
the rent charge is effectual. But af-
ter hys deceaſe the rẽt charge is voyde
as to charge the lãde/for he that hath
the lãde by yͤ ſurvyuour ſhall holde al
the lãde diſcharged. And the cauſe is/
for thys that he that ſurmyſeth clayme
to haue the lãde by yͤ ſurvyuour.ꝛc.
and not by diſcent of hys felowe.ꝛc. But
otherwyſe it is of parceners for if ther
be.ii.pceners of tenemẽtes in fee ſym-
ple/& before any partic̃ the one char
geth that/that to hym belongeth by
his dede of a rẽt charge.ꝛc.& dieth with
out iſſue/& that that to hi belõgeth di
ſcẽdeth to the other pcener/in thys caſe
the other parcener ſhall holde the land
charged.ꝛc.for thys that he cõmeth to
that halfe by diſcente as heyre.ꝛc.

Alſo if there be.ii. Joyntenaunles
in fe ſymple w'in one borough where Deuiſe.
the lands and tenementes within the

Cap. iii. lame bryngyde be deuysable by testa-
ment/yf the one of the sayde Joynte-
naunces deuyse that / that to hym be-
longeth by testamente .&c. & dye / thys
deuyse is voyde. And the cause is for
thys that no Deuyse maye take effecte
but after the death of the deuysoure.
And for thys that by hys death all the
lande incontynent cometh by the lawe
to hys felowe that survyuethe by the
survyuour/ whych ne clameth not hath
nothynge in the lande by the deuyse
but hys owne ryght by the survynour
after the course of ye lawe .&c. for thys
cause suche deuyse is voyde.

Marci. But otherwyse it is of parceners
seased of tenementes deuysable in such
case of deuyse .&c. Causa qua supra.
Also it is comonly sayd y^t euery Joyn-
tenaunte is seased of the lande that he
holdeth joyntly .&c. throughe and by al.
And thys is as muche to say / that he is
seased by euery parcell and by all .&c.
and thys is true/ for euery parcel and
by eche parcel/ and by al the lande and
tenementes he is Joyntly seased with
hys felowes .&c.

Also

Also pt.ii. Joyntenauntes be leased of certayne landes in fee symple / and that one letteth that / that to hym belongethe to a straunger for terme of .x. yere and dyeth within the terme. In this case after his dysse as the lesse may enter and occupy the halfe to him letten durynge the terme .&c. thoughe the lesse neuer had possessyon of it in the lyfe of the lessour by force of the lesse .&c. And the deuersyte betwene the cause of the graunt of a Rent charge/ and this case is this. For i the graunt of a Rente charge by a Joyntenaunt/ the tenauntes abyde alwaye as they were afore / without that / that any hath any ryght to haue parcell of the tenementes/but them selfe and the tenementes abyde in suche plyte as they were before the charge .&c. But where a lease is made by a Joyntenaunt to a nother for terme of yeres .&c. incontynent by force of the lease the lesse hath ryght in the same lande that is to saye of all that ꝑ to his lessour belõged/ & to haue ꝑ by force of ye same lesse durynge hys terme .&c. & this is ꝑ dyuersete .&c. Cap.iii.

Cap.iiii

¶ Also joyntenauntes if they wyl/ may make partycyon betwene them / and the partycyon is good ynoughe / but they shall not be compelled by p^e lawe to do it/ but if they wyl make partycyon of their proper wyll and agrement/ the partycyon shal stande in hys strength

Dyuer syte.

p iii.

p.iii. E.iiii.

E.iiii.

¶ Also yf a Joynte estate be made of lande to the husbande and the wyfe/ and to the thyrde person / in thys case the husbande and the wyfe haue not in the lawe i theyr ryght but the halfe ee. And the thyrde person shall haue as muche as the husbande & the wyfe bathe/ that is so saye/ the other halfe. ee.

And the cause is for that the husbande and the wyfe be but one person in the lawe/ and be in lyke case as if estate be made to .ii. Joyntenauntes/ where the one hath by force of Joynture the one halfe and p^e other the other halfe. In p^e same maner is where estate is made to the husbande and the wyfe and to other .ii. men/ in this case the husbande and the wyfe haue not but the thyrde

par te

parte/ and the other .ii. men the other .ii. partes .ꝛc. Cauſa qua ſupra Moze ſhall be ſayde of the matter touchynge Joyntenaunce in the Chappire of tenaunts in Comon tenaunte per Elegit/ and tenaunt by Eſtatute marchaunt. Ca.liii.

Tenaunts in comon.

Capi.liii.

Tenaũtes in comon be they that haue landes and tenementes in fe ſimple/ fee tayle/ or for terme of lyfe .ꝛc. whyche haue ſuche landes and tenementes by ſeuerall tytle/ and not ioynte tytle/ and none of the knowe that/ ꝓ is ſeuerall to hi. But they ought by the lawe to occuppe ſuche landes and tenementes in comon / and vnderuyded to take the profytes in comon. And bycauſe that they come to ſuche landes ꝫ tenemẽtes by ſeuerall tytles/ and not by one ſelfe Joynte tytle/ and Cap.liii

Cap. iiii

theyr occupacyon and possessyon shall be by the lawe to be amonge them in comon/they be called tenauntes in comon/as yf a man enfeoffe two Joynte nauntes in fee and the one of them alyeneth that that to him belongeth to another in fee/ now the other Joynte tenaunte and the alyene be tenauntes in comon/for this that they be sealed in such tenementes by seueral tytles/ for the alyene cõmethe in the halfe by the feoffement of the Joyntenaũt/& the other Joyntenaũt hath the other halfe by force of the fyrste feoffemente made to hym and to hys fyrst felowe/and so they be in/by seuerall tytles and by seuerall feoffemẽtes.&c. And it is to wyt that whan it is sayde in any boke that a mã is sealed in fe/without more sayenge. It shalbe vnderstande fe symple/ for it shall not be vnderstande by suche worde in fee/that a man is sealed in fe tayle excepte that there be put ther to such addycyon that is to say fee tayle. ¶ Also yf.iii. Joyntenauntes be/ and the one of them alyeneth that/ that vnto hym belongeth to a nother in fe.

☞ Fee symple.

In

In thys case the alyene is tenaunt in comon with the other.ii. Joyntenaun tes. But yet ye other.ii. Ioyntenaũtes be seased of the.ii.partyes ioyntlyꝛ of these.ii.partyes ye futurnour betwene them holdeth place.&c. Ca.liii.

¶Also if there be.ii. Joyntenauntes in fee / and the one gyueth that / that vnto hym belongeth to a nother in the tayle / the donee and the other Joynte naunt be tenauntes in comon.&c. But yf the landes be gyuen to.ii. men and to ye heyres of theyr.ii.bodyes engen dred/the dones haue Joynt estate for terme of theyr lyues/and yf eche of the haue yssue and dye / theyr yssues shall holde in comon.&c. But yf landes be geuen to.ii.abbotes / as to the abbote of westm̃ / and to the abot of Sayncte Albons / to haue and to holde to them and to theyr successours / in thys case they haue incontynente at the begyn ninge estate in comon/and not Joynt estate. And the cause is for thys / that euery abbot or other soueraygne of an house of religiõ before that he be made abbot or soueraygne / was but a deade

Ca.iiii. man in the lawe. And whā he is made abbot he is as a man parsonable i the lawe/alonly to purchase and to haue landes and tenemētes and other thyn ges to the vse of hys house/and nat to hys owne proper vse/as other seculer men may. And for thys in the begyn nynge of theyr purchase they be tenaū tes in comon. And yf the one of them dye/the abbot that suruyueth shall nat haue all by the suruyuour/but the suc cessoure of the abbot that dieth/shall holde the halfe i comon with the abbot that suruyueth ⁊c.

¶ Also yf landes be gyue to an abbot and to a seculer man to haue and to holde to them/ that is to say to the ab bot and his successours /and to the se culer man /to hym and to hys heyres/ they haue estate in comon. Causa qua supra.

¶ Also if landes be gyuen to two men to haue and to holde/the one halfe to the one ⁊ to hys heyres /and the other halfe to the other and to hys heyres: they be tenauntes in comon. ⁊c.

¶ Also if a mā sealed of certayne land; enfeoffeth

enfeoffeth another in the halfe of the same lande without any speche or assygnement or ymptacyon of the same halfe in seuerallty at the tyme of the feoffement/than the feoffe and the feoffour shall holde the partyes of the lande in comon. And in the same maner as is aforsayde of tenauntes in comon of landes or tenementes in Fee symple or Fee tayle. In the same maner maye it be sayde of tenaũtes for terme of lyfe. As the two Joyntenauntes be in fee/and the one letteth to a mã that/ that vnto hym belongeth for terme of lyfe/and the other Joyntenaunte letteth that/that to hym belongeth to another for terme of lyfe these two lessees be tenauntes in comon for terme of theyr lyues. &c.

Tenauntes in comon. Fo.lxxvb Cap.liii

¶Also if a man let landes to two men for terme of theyr lyues / and the one graunteth all hys estate of that / that vnto hym belongeth to another .&c. than that other tenaunte for terme of lyfe and he to whome the graunte is made/be tenauntes in comon durynge the tyme that bothe lessees be alyue.

And

Ca. iiii. ¶And it is to be remẽbred that in all other suche cases thoughe that there be nat here expressely named or specyfyed/yf they be in lyke reason/ they be in lyke lawe.

¶Also there be.ii. Joyntenauntes in fee/ and the one letteth that/that vnto hym belongethe to a nother for terme of lyfe durynge hys lyfe/and the other tenaunt that dyd nat let/be tenauntes in comon. And vpon this case a question may ryse/as thys .¶But the case that the lessoure hath pfluc and dyeth seysynge that other Joyntenaunte his felowe/& seysyng the tenaunt for terme of lyfe/the question may be suche if the reuercyon of the halfe.xx. that the lessour hath /shal dyscende to the pfluc of the lessour or that the other Joyntenaũt shal haue it by/ ỳ survyvour. And some haue sayde in thys case that the other toyntenaunt shall haue the reuercyon by the survyvour/& theyr reason is such/whan the Joyntenaũtes were Joyntly seised in fe simple .xx. thoughe that one of them made estate of that/ that vnto hym belongeth for terme of

A question.

lyfe/

lyfe/and thoughe that he hath therof Ca.liii.
fraūke tenemēt of that/that to him be
longeth by the lease / yet he hath not
severed the fee sipie. But the fee simple
abydethe to him Joyntly as it was be
fore. And so it semeth vnto them that
the other Joynte tenaunt that surup-
nethe/shall haue the reuercyon by the
survyuour .ꝛc. And other haue sayde
the contrary/and thys is theyr reason
whan one of the ioyntenaūtes letteth
hys that to him belōgeth to another
for terme of hys lyfe/that by such lease
the Franke tenement is severed frome
the Joynture. And by the same reason
the reuercyon that is dependaūt vnto
the same Franke tenemēte / is severed
frome the Joynture. Also if the lessour
had reserued to hym a yercly rent vpō
the lease/the lessour only shal haue the
rent.ꝛc. The whych is a proue that the
reuercion is only in hym/and that the
other hath nothig in the reuercyō.ꝛc.
Also if the tenaūt for terme of lyfe were
impleted.ꝛc.3 made defaute after defaut/
than the lessour shalbe only of hys re
gyued to defende hys ryght and hys

felowe

Ca. iiii.

felowe in thys case in no maner shalbe receyued/ whyche proueth that the reuercyon of the halfe is onely in the lessoure. And so by consequens/ if the lessoure dye leuynge the lesse for terme of lyfe/ the reuercyon shall dyscende to the heyres of the lessour .&c. and not come to the other Joyntenaunt by the survyuour. Ideo quere. But in thys case/ yf the Joyntenaunte that hath the Franke tenemente haue yssue and dye/ leuynge the lessour & the lesse/ than it semeth that the yssue shall haue the halfe in his demeine as of fee by discent/ for thys that the Franke tenemente may not by nature of the toyntoure be anexed to a reuercyon. &c. And it is certaine that he that letted/ was seased of the halfe in hys demeine as of fee/ and none shall haue any Joynture in hys Franke tenemēt. Ergo this shall descēde to his yssues. Sed quere. But if it be thus that the lawe in this case is such/ that if the lessour dye leuynge the lesse & leuige the other Joyntenaunte that hath the franke tenemente of the other halfe/ that the reuercyon shall

☞ In quere.

☞ In quere.

descend

descende to the issue of the lessour/ than is the Joynture and the title that any of them maye haue by the survyvour by the ryght of the Joynture adnulled and all vtterly defeted for euer. Ca.liii.

¶ In the same maner it is if the Joynt tenaunte that hath the frāke tenemēt dye/ leuynge the lessour and the lesse/ yf the lawe be suche that hys Frauke tenement and fee that he hathe in the halfe shal descende to hys issue/ thā the Joynture shall be defeted for euer. &c.

¶ Also if.iii. toyntenaūtes de/ and the one releaseth by hys dede to one of his felowes all the ryght that he hathe in the lande/ than hath he to whome the release is made the thyrde parte of the landes by force of the release/ and he and hys felowe shall holde the other. ii. ptyes toyntly. And as to the thyrde parte that he hathe by force of the release, he holdeth the thyrde parte with hym selfe and his felowe in comon.

¶ And it is to wytte that somtyme a dede of release shall take effecte & shall be enure to put the estate of hym that made the release/ to hym to whome the release Relefe.

Ca.xiiii. releasse is made/as ī the case aforsayde
¶ And also if a ioynt estate be made to the husbande and hys wyfe/ and to a thyrde parson / and the thyrde parson releaseth his ryght that he hath.&c. to the husbande/than hath the husbande the halfe that the thyrde parson had/ and the wyfe of this hathe nothynge. And if in suche case the thyrde releasse.&c. to the wyfe/not nampng the husbande in the releasse/thē hath the wyfe the halfe that the thyrde parson had. And the husbande hathe nothynge of hys /but i right of his wyfe/for this that in such case the releasse shall enure to put the estate to hym to whome the releasse is made of all that /that belonged to hym that made the releasse .&c. And i some case a releasse shall enure to put al the ryght ? he hathe that made the releasse to hym to whō the releasse is made. As a man sealed of certayne landes and tenementes is dysseysed by .ii. dysseysours /yf the dysseysy by hys dede releasse all hys ryght .&c. to one of the dysseysours/thā he to whom the releasse is made shall haue & holde

all the

all the tenementes to hym onely / and put out his felowe of euery occupacyō of it. And the cause is for this/that the a.dysseysoues were seysed in the tenementes by wronge by them done agaynst the lawe. And whan one of the happeth the release of hym that had ryght to entre. &c. Thys ryght in such case resteth in hym to whō the release is made / and is in suche plyght as yf he that had the ryght had entred and enfeoffed hym. &c. And the cause is/for this that he that hath before had an estate by wronge/that is to say by dysseysyn nowe by the release a ryghtfull estate.

¶ And i some case a release shall enure by way of extynguysshment/and in such case suche release shal helpe the Joyntenaunt to whom the release was not made/as well as hym to whom the release is made. As if a mā be dysseysed/ the dysseysour maketh a feoffement to.ii.men in fe/yf the dysseysyn release to one of the feoffees i fee by his dede/thā suche release shall enure to bothe the feoffees/for this that the feoffees haue

eſtate by the lawe/that is to ſay/by the
Cap.iiii feoffement. and nat by wronge vnto ſo
any other.&c.

¶And i the ſame maner is it the diſſei
four make a leaſe to a mā/for terme of
lyfe the remaynder ouer to another in
fee/if the diſſeyſy releaſe to the tenaūt
for terme of lyfe al his ryght.&c. This
releaſe enureth as well to hym in the
remaynder as to the tenaunt for terme
of life.&c. And the cauſe is/ for this that
tenaūt for terme of lyfe cometh to hys
eſtate by the courſe of the lawe. And
for this the releaſe ſhall enure and take
effecte by waye of extynguyſſhemente
of the ryght of hym that hath releaſed
&c. And by this releaſe the tenaunt for
terme of life hath no greater eſtate thā
he had before the releaſe made vnto
hym/and the ryght of hym that releaſ-
ed is all vtterly extynct. And in ſo
muche that ſuche releaſe can nat enlar
ge the eſtate of the tenaūt for terme of
lyfe/it is reaſon that the releaſe ſhall
enure to hym in the remaynder .&c.
More ſhalbe ſayde of releaſes in the
ſhappter of releaſe.

Alſo

¶ Also yf there be .ii. perceners / and the one alyeneth that vnto hym belongeth to another / than the other parcener and the alyene be tenauntes in comon. Cauti.

¶ Also tenãtes in comon may be by tytle of prescripcion / yf the one and his ãcesters or they that whose estate he hathe in the halfe / haue holden in comon / the same halfe with the other tenaunte that hathe the other halfe / and with hys auncesters or them whose estate he hathe as vndeupoed to tyme wherof no memory renneth. ãc. And dyuers other maners maye make and cause men to be tenauntes in comon that be not here expressed.

¶ Also in sum case tenãtes in comon ought to haue of their possessyon seuerall accyons / and in sum case they shal ioyne in one accyon. For yf there be .ii. tenauntes in comon and they be dysseased / they ought to haue agaynst the dysseasour .ii. assyses and not one assyse / for euery of thẽ ought to haue an assise of hys halfe. ãc. And yᵉ cause is for thy the tenãtes i comõ were seased by

ſeuerall tytles / but otherwyſe it is of Joynt tenauntes For if there be .iii. joynt tenauntes and they be dyſſeyſed / they ſhall haue in all theyr names but one Aſſyſe/ bycauſe that they hade but one Joynte tytle.

¶ Alſo if there be .iii. Joyntenauntes/ & one releaſeth to one of hys felowes all the ryght that he hathe / and after the other .ii. be diſſeaſed of the hole. &c in this caſe the other ſhal haue ſeuerall aſſyſes in thys forme/ that is to ſaye/ they ſhall haue in bothe theyr names one aſſyſe of the .ii. partes. &c. for this that they helde the .ii. partes iointely at the tyme of the dyſſeyſyn. And as to the thyrde parte / he to whom the releaſe was made ought to haue therof an aſſyſe in hys owne name / for thys p^t as to the thyrde parte he is tenaunt in comon. &c. for this that he came to y^t thyrde parte/ by force of the releaſe & not onely by force of the Joyncture.

¶ Alſo as to ſuc accyons ꝑ touchethe the ropalte/ there is diuerſyte betwene parceners that be in by dyuers diſcentes/ and tenauntes in comon. For

yf a man seased of certayne landes in fee haue yssue .ii. doughters and dye and they enter. &c. and eche of them hath yssue a son and dye without partycyon made betwene them by which the one halfe descendeth to the sone of the one parcener / and the other halfe descendeth to the son of the other parcener / and they enter and occuppe in comon and be dysseased / in thys case they shall haue in theyr .ii. names one assise / and not .ii. assises. And the cause is / that thoughe they come in by dyuers descentes. &c. yet they be pceners / and a writ De Partitione facienda lyeth betwene them. And they be not parseners hauinge regarde or respecte onely to the seysyn & possessiō fro theyr mothers / but they be pceners hauyng more respecte to the estate that descended from theyr graundfader to theyr mothers. For they maye not be parceners where theyr mothers were not parceners before. &c.

Parceners by dyuers dyscētes desseised shall hauc in theyr two names one assyse & not. ii. assyses

¶ And so to such respecte & concydera tyon / that is to wyt as to the fyrst descent that was to theyr mothers / they

haue a tytle in poenary/the which mi
keth the peeners. And also they be but
as one heyre to theyr comon auncestre/
that is to say/to their grãdfather from
whome the lande descended to theyr
mothers. And for these cases before
partycyon betwene the.ij. they shulde
haue one allyse thoughe they come in
by seuerall descentes.ij.

¶ Also yf there be two tenauntes in
comon of certayne landes in fee / and
they gyue the same lande to ano-
ther man in the tayle / or let it to ano
ther man for terme of lyfe / peldynge
an annuyte or certayne rente / and a
pounde of peper / or an hawke/or an
horse/and they bene seased of these se
uerces / and after all the rente is be-
hynde and they destrayne for it and
the tenaunte maketh them rescous.
In that case as to the rente and the
pounde of peper they shall haue two
allyse/and as to the hawke and the
horse but one allyse / and the cause
why they haue .ij. allyses as to the
rente and pounde of peper is thys / in
so muche that they were tenauntes/ in
comon

comon by seueral tytles and whā they made a gyfte in the tayle or leasse for terme of lyfe. &c. sayenge to them the reuercyon/ and yeldynge to them certayne rent. &c. Such reseruacyon is incydent to theyr reuercyon. Ca. xlii.

And for this that their reuercyon is in comon and by seuerall tytles/ as theyr possessyon was before theyr rent and other thynges that may be seuered and were to them reserued vpon the gyfte or vpon the leasse whyche be incydent by the lawe to the reuercyon/ suche thynges so seuered was of the nature of the reuercyon/ which reuercyon is to them in comon by seuerall tytles. And it behoueth that the rent of the pounde of peper whiche may be seuered is to them in comon/ by seuerall tytles. And of this they shal haue. ij. allyses & euery of them in bys allyse shal make his plaint of the halfe of the rents of the halfe of the pounde of peper. &c.

But of the hawke & the horse which can not be seuered/ they shall haue but one allyse/ for a man may not make a

Ca. iii.

playnt i assise of the halfe of an halwht or of the halfe of an horse .&c. In the same maner it is of other tenutes and Executes that tenauntes i comon haue in grosse by dyuers tytles.

¶ Also as to accyons personely / tenaunles in comon ought to haue such accyons personels Joyntly i all theyr names / that is to saye of trespas / or of offentes that touche theyr tenauntes in comon. As of brekynge of theyr houses / brekynge of theyr closees and pastures / wastynge and destroylynge of theyr grasse / cuttynge of theyr woode / & to hithe in theyr pondes / & such other In thys case tenauntes in comen shall haue one accio ioithly & recouer iointly damages bicause that the accyon is in the personalte and not in the realte.

Tenaũtes in cõmõ shal haue an accyon of dette.

¶ Also yf. ii. tenauntes i comon make a lease of theyr tenementes to another for terme of yeres / yeldyng vntõ them yerely a certayne rent if the rent be behynde .&c. the tenauntes shall haue one accyon of det agaynste the lessee / & not dyuers accyons / for that the accyon is in the personalte

Auoure

Also

¶ Also tenantes in comon maye make partycyon betwene them if they wyll/ thoughe they shall not be compelled by the lawe. But if they make partycyon bytwene them by theyr agremēt and assente; suche partycyon is good ynough/ as it is adiudged in the boke of assyse. fo.xii. C.xii. Cap.iiii

¶ Partycyons or cōsensu.

¶ Also as there be tenauntes in comon of landes or tenementes. &c. as is afore sayd. In the same maner there be possessyons and properties of Chatell reall and Chatell personall. As yf a lease be made of certayne landes to.iii. men for terme of.xx. yeres/ and whan they be therof possessed/ the one of the leases grauntyth that/ that vnto hym belongeth before the terme to another/ than he to whom the graunte is made and the other shall holde and occupye in comon.

Tenaūtes in comon of catell

¶ Also yf. ii. joynt tenauntes haue the warde of the body & of the landes of the childe within age/ and that one of the grauntyth to another that/ that vnto him belongeth of the same warde/ that the graūte and the other that graun-

Ca.lxiii. keth not shall haue and holde it in comon.&c.

¶In the same maner it is of Chatels Parsonels /as if.ii. haue a iopat estate by gyfte or by byenge of an horse or ore.&c.the one of them graunteth that that to him belōgeth of the same horse or ore.&c. Than the graunte and he that graunted nat shall haue and possesse suche Chatel parsonell in comon.&c. And in suche cases where dyuers parsones haue Chatels reals or parsonels in comon /and by dyuers tytles/ if the one of them dye / the other that survyueth shall not haue that by the survyuour.But the executours of him that dyeth shall holde and occupy that with hym that survyueth as they ought in hys lyfe.&c. for this that they ought in this case were seuerall.

¶Also in thys case aforesayde yf .ii. haue estate i comon for terme of yeres and the one occupy all & put the other out of his possessiō & occupacion.That shall he that is put out of occupacyon haue agaynste that other a wryte

Electyon

Electione fyrme for the halfe agaynst the other. In the same maner it is where two holde the warde of lādes or tenementes duryng the nonage of a chylde/if one put oute the other of hys possessyon/he that is oute shall haue no wryt de electione firme de garde of ꝑ halfe for this that those thinges be Chatels reals and may be appoynted and secured. ꝛc. But no suche accyon of trespace/that is to say. Quare clausum suum fregit et herbā suā conculcauit & eam sumpsit. ꝛc. And such lyke accyons the one maye not haue agaynst the other/for this that eche of them may entre and occupy in comon. ꝛc. throughe and by all the tenementes whiche they holde in comon. But yf two be possessed of Chatels personels in comon by dyuers tytles/ as of an horse or an ore or a kowe yf the one take it all to hym selfe out of the possessyon of the other/ the other hath none other remedy, but to take this of hym that hathe done to hym the wrong for to occupy in comon whan he may se hys tyme.

¶ In the same maner it is of Chatell

reale

real that may nat be seuered as in case aforesayd that two be possessioners of a warde of the body of a chylde within age / yf one take the chylde out of the possessyon of the other / the other hath no remedy by any actyon by the lawe / but to take the chylde out of the others possessyon whan he seeth his tyme. &c.

The fourme of plee dynge.

¶ Also whan a man in pleedynge wyll shewe a dede of feoffement made vnto hym / or a gyfte in the tayle / or a lease for terme of lyfe of any landes or tenementes / there he shall saye by force of whiche feoffement gifte or lease he was seased. &c.

Dyuersyte.

¶ But where a mã wyl pleade a lease or a graunte made vnto hym Chatell real or Parsonal / there he shal say par force of which he was possessed. More shalbe sayde of tenauntes in comon in the chappter of releases / confyrmacyons / and tenauntes per Elegit.

¶ Estates vpon a condycyon.

¶ Capi. v. ¶.

Cap. v.

Estates that men haue in landes or tenementes be in two maners. That is to saye / they haue estate

vpon

vpon condycyon in dede or vpon condycyon in lawe. Vpon condycyon in dede is/as a man by dede indented enfeoffeth another in fee /reseruynge to hym and to hys heyres yerely a certayne rente payable at one feaste or at dyuers festes by yere /vpon condycyon that yf the rent be behynde .xx. that it shalbe lefull to the feoffeour and to his heyres to enter i to the landes or tenementes .xx.

Cap. h.

¶ Or yf the lande be alyened to another in fee to yelde vnto hym certayne rent. xx. And yf it hap that the rente be behynde by a weke after any daye of payment of it/or by moneth/or by a halfe yere after any daye of paymente/ that than it shalbe lefull to the feoffour and to hys heyres to enter. xx.

In thys case yf the Rent be nat payde at suche a tyme /or before suche a tyme lymytted and specifyed within the condicion comprysed in the indenture/ than maye the feoffour or hys heyres enter in to such landes or tenementes/ and them in hys fyrste estate to haue and to holde/ and of hys to put the feoffee

Cap.v. feoffee clene oute/and it is called estate vpon condycyon / for thys that the estate of the feoffee is defensable yf the condycyon be not performed.

In the same maner it is yf landes be gyuen in the tayle / or let for terme of lyfe/or for terme of yeares/vpon suche condycyon.&c. But where a feoffement is made of certayne landes reseruyng certayne rente vpon suche condycyon that yf the rēte be behynde that it shal be lefull to the feoffour and hys heyres to entre/and the lāde to holde tyll they be satysfyed or payde of theyr rent behynde.&c. In thys case yf the rente be behynde and the feoffour & hys heyres entre / the feoffe is not excluded clene out. But the feoffour shal haue & holde the lande and take the profytes tyll that he be satysfyed of ye rent behynde. And whē he is satisfied/the feoffe may reentre in the same lande and holde it as he dyd before / for in suche case the feoffour shall haue it/but in maner for a dystresse in the meane tyme tyl he be satysfyed of the rente.&c. shall take the profytes in the meane tyme.

Also

¶Also dyuers wordes amonge other there be that by vertue of them selfe make estate vpon condycyon. One is thys worde of condycyon/as .A. enfeoffeth .B. of cartayne lande to haue and to holde to the same .B. and hys heyres vpon condycion that the same .B. and hys heyres shall paye or do to be payde to the foresayde .A. and to his heyres yerely suche a rent. &c. In thys cases without any more sayinge the feoffee hathe estate vpon condycyon. Also yf the condycyon were suche. Prouided alwaye that the foresayde .B. pay or do to be payde to the foresayde .A. such a rent. Or yf they were thus/so that the foresayde .B. paye or do to be payde suche rent. In these cases without any more sayinge the feoffee hathe estate but vpon condycyon/so that yf he performe nat the condicion/the feoffour and hys heyres maye entre. &c. Ca.v. Vpon a condycyon. Prouiso

¶Also other wordes there be in a dede that causeth the tenauntes to be condycyonels as vpon suche a feoffemente a rent is reserued to the feoffour. &c.

and

and after it is put in the dede that yf
La.b. it chaunce the forsayde rent to be vn-
dynde in parte or in all. &c, that that
it shall be lawfull to the feoffoure and
to his heyres to entre. And thys is a
dede vpon condycyon. But there is
dyuersyte betwene these wordes / yf it
chaunce. &c. and the wordes nerre a-
forsayde. For thys worde / if it chaūce
&c. is nought worthe to suche condy-
cyon / but yf it haue these wordes fo-
lowynge/that is to saye / that it shall
be lefull to the feoffour and to hys hey-
res to enter.&c. But in these cases
Condi afforesayde it nedeth not by the lawe
cio im to put suche clause / that is to saye/
plicita. that the feoffour and hys heyres may
entre.&c.for thys that they may so do
by force of the wordes afore sayde/ by-
cause they conceiue in them selfe in the
lawe a condycyon /that is to say/that
the feoffour and his heyres may entre.
Yet it is comonly in all suche cases a-
forsayde to put suche clauses in the
dedes/that is to say/yf the rente be vn-
dynde.&c.yt it shal be lefull to the same
feoffoure and hys heyres to enter.&c.

and

And thys is well done to that entente for to declare and expresse to the laye men that be nat lerned in the lawe/ the maner and the condycyon of the feoffement. &c. As a man sealed of lande as of franke tenemēt/ let the same lande to another by dede endented for terme of yeres ỳeldynge vnto hym certayne rent/ it is vsed to put in the dede that yf the rent be behynd at the day of payemente by a moneth. &c. That than it shall be lawefull to the lessoure to dystrayne. &c. and yet the lessour may dystrayne of comon ryght for the rent behynde. &c. thoughe such wordes neuer were set in the dede. &c.

Also if any feoffement be made vpō suche condycyon/ that yf the feoffoure paye at a certayne day. &c. xx. li. of money/ that than the feoffour may enter. &c. In thys case the feoffe is called tenaunt in Mortgage/ that is as much to say in frenshe as Mortegage/ and in latyn Mortym vadium/ and in Englysshe a deade pledge. And it semeth that the cause why it is called Mortgage/ is for that that it standeth in

Pignus mortuum.

Cap. b. double yt the feoffoure may pay at the day limytted suche a sum or nat/ and if he pay nat/ than the lãde that is put in pledge vpon cõdicyon for the paymẽt of the money/is gone from hym for euer. And so forth as to the tenaũt. ꝛc.

¶ Also as a man may make a feoffement i fee in Mortgage/so may a man make a gifte of the tayle i Mortgage/ & a lease for terme of lyfe / or for terme of yeres in Mortgage. And all suche tenauntes be tenauntes in Mortgage after the state that they haue in the landes. ꝛc.

¶ Also if a feoffemẽt be made in Mortgage vpon condicion that the feoffour shall pay suche a sume at suche a day. ꝛc. as is betwene them by theyr dede endẽted accorded & lymytted/thought the feoffour dye before the day of payment. ꝛc. yet if the heyre of the feoffour paye the same sume within the day to the feoffee/or profer hym the money/& the feoffee refuse the to receyue it/ than maye the heyre enter in to the landes. And yet the cõdicyon is/if the feoffour pay suche a sum at suche a day. ꝛc. and

Estate vpon condycyon. Fo. lxxxvii.
nat makynge mencyon in the condy-
cyon of any paymēt to be made by hys
heyre. But for this/that the heyre hath
interest of ryght in the condycyon .&c.
and the entēt was but that the money
shulde be payde at the daye set .&c. and
the feoffee hath no more damage to be
payde by the heyre/ than thoughe he
were payde by the father .&c. for thys
cause if the heyre pay the money or ten
deth the money at the day set .&c. and
the other refuseth it/ he may wel enter.
But yf a straunger of hys owne hed
that hath no entereste .&c. wolde tende
and pay the money at a day set/ the fe-
offee is nat bounde to receyue it .&c.
And it is to be had in mynde/ that
in suche case where such lawfull tender
of the money is made/ and the feoffe re
fuseth to receyue it/ wherfore the feof-
four or his heyres wenter .&c. than the
feoffe hath no remedy to haue the mo-
ney by the comon lawe/ for thys that
it shalbe areeted hys owne folp that he
refused the money whan lawful profer
was made of it vnto hym .&c. La.b.
Also if a feoffemēt be made in suche

Estate vpon a condycyon.

Cap.v. condycyon/that if the feoffe pay to the feoffour at ſuche a day betwene them ymyttid.xx.li. that thā the feoffe ſhall haue the lande to hym & to his heyres/ and if he fayle to pay the money at the day.&c. that than it ſhall be lefull to the feoffour or to hys heyres to enter. &c. & yf after before the day ſet/ the feoffee ſelleth the lande to another /and therof maketh a feoffement vpon him/ in thys caſe yf the ſeconde feoffee wyll tende the ſume of money at the day ſet to the feoffour/ and the feoffour refuſeth it.&c.than hath the ſeconde feoffee eſtate in the lande clerely without condycyon. And the cauſe is for/that the ſeconde feoffee had intereſt in the condycyon for ſaluacyō of hys tenauncye. And in thys caſe it ſemeth that yf the fyrſt feoffee after ſuch ſale of the lande wyll tende the money at the daye ſet. &c. to the feoffour/ that ſhall be good ynough for the ſaluacyon of the eſtate of the ſeconde feoffee/ for thys that the fyrſte feoffee was prcuy to the condycyon /and ſo the tender of any of them is good ynoughe.&c.

Alſo

¶ Also if the feoffement be made vpon condycyon that if the feoffour paye a certayne sum of money to the feoffee/ that than it shall be lefull to the feoffour and to hys heyres to entre. &c. In this case yf the feoffoure dye before the day of payment/ and the heyre wyll tender to the feoffee the money/ suche tendes is voide/ for this that the tyme within whyche the tender ought to be made is paste. For whan the cõdicyon is/ that yf the feoffour pay the money to the feoffee/ thys is as muche to say/ that yf the feoffoure duryng hys lyfe pay the money to the feoffee. &c. And whan the feoffour dyeth/ thã the tyme of the tender is paste. But otherwyse it is/ where a day of payment is lympsted/ & the feoffour dyeth before the day than may the heyre tender the money as it is aforsayd/ for this that the time of the tender was not past by the dethe of the feoffour. Also it semeth in suche case where yᵉ feoffour dyeth before the day of paiment if the executours of the feoffour tender the money of the feoffe at the day of paiment/ yᵉ tẽder is good

Cap. b. ¶ In what time tender shall be.

Ca. v. ynough. And yf the feoffe refuse thys/ the heires of the feoffour may enter. ℞ And the cause is/for this that the executours represent the parsone of theyr testatour. ℞. And note wel/yᵗ al suche cases of condycion of payment of certayne sum in grose touchynge landes or tenementes/if lawful tender be onces refused/he yᵗ ought to pay the money is therof alloyed & clerely discharged for euer after.

¶ Also yf the feoffee in Mortgage before the day of payment that shall be made vnto hym make hys executours and dye / and hys heyre entreth into the lande as he ought. It semeth in this case that yᵉ feoffour ought to pay the money at the daye set to the executours/and not to the heyre of the feoffe for thys that the money at the begynnynge belonged to the feoffe in maner as a duty. And shalde vnderstãde that the estate was made bycause of bore wynge of the money of the feoffee/ or bycause of another duty. And for thys the payment shal not be made vnto the heyre of the feoffee as it semeth. But yᵉ

wordes

wordes of the condicyon may be such ꝑ the payment shalbe made vnto ꝑ heire as if the condicion were/that the feoffour pay to the feoffee or to hys heyres suche a sum at suche a daye.&c. Thereafter ꝑ deth of ꝑ feoffe if he dye before the day lympted/thā ꝑ paymēt ought to be made to the heire at ꝑ day set.&c. Cap.b.

¶ Also in suche case of a feoffement in Mortgage/a question hathe bene demaunded in what place the feoffour is bounde to tender the money to the feoffee at the day set.&c. And some haue sayde that vpon the lande so holden in Mortgage for this that the condicion is dependaūt vpon the lande/and they haue sayde that yf the feoffour be redy vpon the land to pay the money at the feaste or day set/and the feoffee be not at that tyme there/that than the feoffour is excluded & dyscharged of payment of the money/for this that no defaute was i hym/but it semeth to some men that the lawe is contrary/and ꝑ defaute is in hym. For he is bounde to seke the feoffe if he be thā at any time i any maner of place wᵗin the realme of

where tender shall be made.

Cap.v. England. As yf a man be bounde in an obligacyon of.xx.li. vpon cõdicyon indoſed vpon the obligacyon that yf he paye to hym to whome the obligacyon is made at ſuche a day.x. li. that than the obligacyon of.xx.li. ſhall leſe his force and ſhalbe holden for nought/ in thys caſe it behoueth him that made the obligacyon to ſeke hym to whom the obligacyon is made/yf he be with in England/and at the day ſet to tender to him the ſaide.x.li.&c. And other wyſe he forfaiteth y^{e} ſum of.xx.li. comprifed within the obligacion/and ſo it ſemeth i ye other caſe.&c. And though that ſum haue ſayde/that the cõdicion is dependaunt vpon the lande/yet this is not proued that the feſaunce of the condicion to be performed ought to be made vpon the lande.&c. No more thã if the condicion were that the feoffour ſhulde do at ſuche a day.&c. an eſpecyal corporal ſeruyce to ye feffe not namig the place where the corporall ſeruyces ſhulde be done. In this caſe the feoffour ought to do ſuch corporal ſeruice at the daye lympt to the feoffe in what

so euer place in Englande that the feoffee be it he wyll haue aduauntage of the condycyon.&c. And so it semeth in that other case. And it semeth to them that it shalbe more properly sayd that the estate of the lande is dependaunte vpon the condycyon. &c. whiche is as muche to saye/that the condycyon is dependaunt vpon the sayde.&c.but enquyre.&c.

¶But if a feaffemēt in fee be made reseruing to the feoffour an annuel rent/ and for defaute of payment a reentre. &c.in this case it nedeth not to the tenaunt to tender the rent whan it is behinde/but only vpon the lande/for this that this is a rent going out of the lande/for thy is Rent secke. For if the feoffoure be once sealed of this rente/& after he cometh vpon the lande.&c.and the rent is denied him.&c.he may haue assyse of Nouell dysseysyn/for though he may entre because of the condycyon broke yet he may chose/that is to say/ to entre or to haue an assyse. And so is there dyuersyte as to the tender of the rent that is going out of the lāde/

Cap.b. and of tender of another sum in grosse which is not goynge out of any lande. And therfore it shalbe sure and a good thynge for them that wyll make suche feoffemēt in Mortgage/to put and set a specyall place where the money shal be payde. And the more specyal that it is put the better it is for the feoffoure. As if.A.enfeoffe.B.to haue to hym & to hys heyres vpon such condycyon/ that if.A.pay to.B.in ye feest of sayn̄t Mychell the archaūgel nexte comyng in the cathedral churce of sayn̄t Poule of London within.iiii.houres nexte be fore the houre of none of the same feest at the rode lofte of the north doze with in the same church or at any other certaine place within the same church/ y^{t} than it shalbe leful to the forsayde.A.& to his heyres to entre.&c. In such case it nedeth not to seke the feoffe in any other place but in the place comprised in the indenture/ nor to be there more longer tyme than the tyme specyfyed in the same indenture/for to tender or pay the money to the feoffe.&c.

¶ Also in suche case where the place

of payment is lympt/the feoffee is not bounde to receyue the payment in none other place/but in the place so lympted. But yet yf he receyue the payment in any other place/thys is good ynough and as strong for the feoffoure as yf the receyte had be in the same place so lympted.&c Cap. b.

☞Also in thys case of feoffement in mortgage/if the feoffour pay the feoffe an horse or a cuppe of syluer/or a ringe of golde/or any other suche thynge in full satisfaccio of p^e money/& the other this receyueth/thys is good ynoughe and as stronge as yf he hade receyued the sum of money/ thoughe the horse/ or any of the other thynges be not the twēty parte worth in value of the sum of money/for this & the other hath accepted it in playne & full satysfaccyon. Satysfaccion.

¶Also if a man enfeoffe another in fee vpon condicion that he and his heires shall yelde to a straūger & to his heires a yerely rent of .xx.s. and if he and his heyres fayle of payment of thys/that than it shall be lefull to the feoffour and to his heyres to entre/thys is a good condicion

Fa.b. cõdycyon. And yet in this case though suche a yerely rent be called an annuel rent/thys is not yperly a rent/for if it shalbe rẽt/it ought to be Rent serupse/ Rent charge/or Rent secke/ & yet it is none of them/for if the straunger were seased of this and after it were to hym denyed/he shall neuer haue allyse of this/for thys that it yssueth not out of any landes/and so the straunger hath no remedy yf any such yerely payment be bade behynde in this case/ but that the feoffour and his heires may entre. ẽ. and yet if the feoffoure & his heyres entre for defaute of paiment/thã suche rent is gone for euer. And so such rent is but a payment set to the tenaunte and to hys heyres/that if they wyl not pay thys after the forme of the endenture that they shal lease theyr lande by the entre of the feoffour or hys heyres for defaute of payment. And in thys case it semeth that the feoffee and hys heyres ought to seke the strãger & hys heyres yf they be in Englonde/bycause that no place is ympytted where the payment shalbe made/& bycause that such

Estates vpon a condicion. Fo.C.iii.
Suche Rente is not goynge out of any
lande .&c. Ca.v.

¶And here note wel.ii.thynges. One
is/that no rente that is properly saide
rent/maye be reserued vpon any feoffe
ment /gyfte /or lease / but onely to the
feoffoure or to the lessoure or to theyr
heyres /and in no maner maye be re-
serued to any straunge parsone. But
yf.ii. Joyntenauntes make a lease by
dede indented/ reseruyng to the one a
certayne yerely rent/ it is good ynough
to hym to whome the rent is reserued/
for thys that be is pryue to the lease
and nat a straunger to thys .&c. The Marle.
seconde thynge is/that no entre or re-
entre which is all one/may be reserued
nor gyuen to any parsone/but onely to
the feoffour or to the donoure or to the
lessour /or to theyr heyres / and suche
entre maye not be alyened nor graun-
ted to any parsone. For if a man let
landes to another for terme of lyfe by
endenture /yeldynge to the lessour and
to his heyres a certaine rent/and for de
fate of payment a reentre .&c. yf after
the lessour by a dede graunt the reuer-

cyon

Cap.v.

cyon of the lande to another in fee and the tenaunt for terme of life attorneth &c. if the rent after be behind / the graūt of the reuercyon may dystrayne for the rent / for thys that the rent is incydent to the reuercyon / but he may nat enter in to the lande and put out the tenaūt as the lessour myght or hys heyres yf the reuercyon had bene contynued in them .&c. and in thys case the entre is taken away at al tymes / for the graūt of the reuertion may nat enter. Causa qua supra. And the lessour nor his heyres may nat enter / for yf the lessour may enter / than he ought to be in hys fyrste estate. &c. & that may nat be / for thys that he hath from hym the reuercyon. &c.

¶ Also yf there be lorde and tenaunte / and the tenaunt make suche a lease for terme of lyfe yeldig to the lessour and to hys heyre suche yerely rent / and for defaut of paymēt a reentre. &c. yf after the lessour dye without heyre / durynge the state of the tenaūt for terme of lyfe by whych the reuercyon cometh to the lorde by waye of eschete / and after the

rent of

rent of the tenaunt for terme of lyfe is behynde/ the lorde maye dystrayne the tenaunte for the rent behynde/ but he maye nat enter in to the lande by force of the condycyon. &c. for this that he is nat heyre to the feoffour. &c. Cap. v.

Also yf lande be graunted to a man for terme of yeres vpon a condicion/ that yf he pay to the grauntour within two yeres. xl. markes/ that than he shall haue the lande to hym and to hys heyres. &c. In this case/ if the graunte enter by force of the graunt/ and after he payeth to the grauntour. xl. markes within the two yeres/ yet he hathe no thynge in the lande/ but for terme of the. ii. yeres/ for thys that no lyuere of seysyn was to him made at the begynnynge/ for if he had Franke tenement and fee in thys case bycause he hathe performed the condycyon. Man shulde he haue Franke tenemente by force of the fyrst graūt where no lyuere of seysyn was made there of/ whiche shulde be agaynst reason. &c. But if the grauntour had made lyuere of seysyn to the graunte by force of the graunt/ than

hath

Cap.v. bathe the graunte the Franke tenemente and the fee vpon the same condycyon.&c.

¶ Also yf lande be graunted to a man for terme of.v. yeres/ vpon condycyon that he paye to the grauntour within the fyrst.ii.yere.xl.markes/ that than he shall haue fee or els but for terme of the .v.yeres/& lyuere of seasyn is made to hym by force of the graunte. Nowe he hath in fe symple condycyonel.&c. And yf in thys case the graunte paye not to the grauntoure the.ix.markes within the same .ii.fyrste yeres / than immedyatly after the same .ii. yeres the fee and the franke tenement is and shall be adiudged in the grauntour/for thys that the grauntour may not after the .ii. yeres incontynent enter vpon the graunte/ for thys that the graunt hath yet tytle by.ii.yeres to haue and to occupy the land by force of the same graunte. And so for thys that the condycyon of parte of the graunt is broken and the grauntour maye not enter/the lawe shall put the Fee in Franke tenemete in the grauntoure. For yf the

graun

Estate vpon cõdycyon. Fo. lxxxvii. Tab.
grauntoure in thys case made waste/ than after the brekynge of the condycyon. &c. & after the .v. yeres the grauntour shall haue his writ of waste/ & this is a good profe that the reuercyon is in hym. &c. But in suche case of feoffementes vpon condycyon where the feoffour maye entre lawfully for the condycyon broken. &c. There the feoffour hath the Franke tenement before the entre. &c.

Also yf a feoffement be made vpon suche condycyon that the feoffee shall gyue the lande to the feoffoure/ and to the wyfe of the feoffour to haue and to holde to thē and to the heyres of their .ii. bodyes engendred/ and for defaute of suche yssue/ to remayne to the right heyres of the feoffour. In this case yf the husbande dye/ leuyng the wyfe before estate in the tayle made to hym/ than ought the feoffee by the lawe to make estate to the wyfe/ as like to the condycyon/ and as lyke to the entente of the condycyon as he may make it/ that is to say/ to let the lande to the wife for terme of lyfe without empechement

Cap. b. of waste / the remaynder after her decesse to the heyres engendred of the body of her husbande and hers / and for defaute of suche yssue / the remaynder to the ryght heyres of the husbande.

¶ And the cause why the lease shall be made in this case to the woman sole without empechement of waste is for this that the condycion is / that the estate shalbe made to the husbande and his wyfe in the tayle. And yf suche estate had be made in the lyfe of the husbande / than after the dethe of her husbande she had had estate in the tayle sole / wherthe estate is without empechemente of waste / and so it is reason that if after a man may make estate to the entente of the condycion. &c. that he shal make it. &c. though that she can nat haue estate in the tayle / as she myght haue had / yf the gyfte i the tayle had be made to the husbande / and to her / in the lyfe of her husbande. &c.

¶ Also in this case yf the husbãde / and the wife haue yssue / and dye before the gyfte in the tayle made vnto hym. &c. than ought the iesse to make estate to

the

the issue and to the heyres of the father and mother engendred / and for defaute of suche yssue. &c. the remaynder to the right heyres of the husbande. &c. And the same lawe is in other cases semblable. And if suche a feoffoure wyll nat make suche estate whan he is reasonably requered by the that ought to haue estate by force of the condycyon. &c. Than maye the feoffour and hys heyres enter. &c. Cap. b.

¶ Also yf a feoffemente be made vpon condycyon that the feoffee shall enfeffe many men / to haue and to holde to hym and to theyr heyres for euer / and all they that ought to haue estate / dye before any estate made vnto them / than ought the feoffee to make the estate to the heyres of hym that furuyue of the to haue and to holde to hym and the heyres of hym that furuyued. &c.

¶ Also yf a feoffemente be made vpon condycyon to enfeffe another / or to giue in the tayle to another. &c. if the feoffee before the performynge of the condycyon enfeffe a straunge person / or make estate for terme of lyfe / then maye

Cap.v. the feoffour or his heyres entre.&c. for this that he hath disabled him selfe to performe the condycyon/in so muche that he made estate to another.&c. In suche maner it is/yf the feoffee before the condycyon performed/set the same land to a straunger for terme of yeres. In this case the feoffour or his heires may entre.&c. for this that the feoffee hath disabled him selfe to make estate of the tenementes accordyng to that/ that was i the tenemētes when estate therof was made vnto hym/ for yf he wyll make estate accordyng to the condycyon.&c. thā may the feoffe for terme of yeres entre and put out him to whō the estate is made.&c. and to occuppe this durynge hys terme. And many haue/said that if suche a feoffement be made to a man sole vpon the same condycyon / and before that he hathe performed/the cōdicion he taketh a wife/ than the feoffour or his heyre may incontinēt entre/for this/that if he hath made estate accordynge to the condycyon/and after dyed/his wyfe shall be endowed and may recouer her dower

by a

by a wryt of Dower. &c. And so by ta- Cap. v.
kyng of a wyfe/the tenementes be put
in a nother plyte than they were at
the tyme of the feoffement vpon condy
cyon/for this that than no such woma
was dowable nor shulde be endowed
by the lawe. &c. In the same maner is
is/yf the feoffoure charge the lande by
hys dede of Rent charge before the per
formyng of the condicion/or be bounde i
a statute staple/or statute marchaunte
that in such cases the feoffour and hys
heyres maye enter. Causa qua supra
For who so euer cometh to the tene-
mentes by the feoffement of the feoffe/
than the tenementes muste be lyable
and be put in execucyon by force of the
statute aforesayd. But whan the feof- Quare.
foure or hys heyres for the cases afore-
sayde/haue entred so as they ought as
it semeth. &c. Than all suche thynges
that before suche entre myght trouble
or encombre the tenementes so gyuen
vpon condicio, as touchynge the same
tenementes be vtterly defeted. &c.

Also yf a man make a dede of feoffe-
ment to a nother/and in the dede is no

condycyon.&c. And whan the feoffour
Ca.v. wyll make to hym lyuere of seysyn by
force of ye same dede/he maketh lyuere
of seysyn vpon certayne condycyons.
&c. In this case nothynge of the tene
mentes passeth by the dede/for thys
that the condycyon is not comprysed
in the dede/and the feoffement is of in
the force/as yf no suche dede hade be
made therof.&c.

¶ Also yf a feoffement be made vpon
suche condycyon/that the feoffee shall
alyen the lande to no man/thys condy
cyon is voyde/for thys/that whan a
man is enfeoffed in landes or tenemen
tes he hathe power to alyen them to
Quare. some parson by the lawe for if such con
dycyon shulde be good/than the condy
cyon putteth hym out of all the powre
that the lawe gyueth/whiche shulde be
agaynst reason/and for this/suche con
dicyon is voyde. But if the condicion be
such/that the feoffee shall not alyen to
one such namyng his name/or to any
of his heyres or his issues.&c. or suche
other/the which condicions taketh
not away all the power of alyenacyon

of the

the feoffe. &c. thā such cōdicion is good Cap. v.
¶ Also yf tenauntes be gyuen in the
taile vpō such cōdicion that the tenaūt
in the tayle/nor his heyres. &c. shal not
alyen in fee/nor in taile/nor for terme
of others life/but for their owne liues.
&c. such alyenacyon and condycyon is
good. And the cause is for this/ yᵗ whā
he maketh such alienacion and discōti
nuaūce/ he doth cōtrary to the entente
for whiche the statute of westmynstre
the seconde was made/ by whiche esta
tute/ the estates i the tayle be ordeined
for it is proued by the wordes cōpriſed
in the same estatute/ that the entēte of
the makyng of the same estatute was/
that the wyll of the donour in suche es
tates shulde be obserued. And whan te
naunt in the tayle/ maketh suche dyſ-
contynuaunce/ he doth the contrary
to yᵗ. &c. And also in estates i the tayle
of any tenemētes whā the reuercion of
the fee symple is another parson/ whan
such discontynuaunce is made/ thā the
fee symple in the reuerſyon/ or the fee
symple in the remaynder/ is dyſcon-
tynued/ and for to put out that the te-

Estate vpon a condycyon/
tenaunte in the Tayle shall do no such
Ca.b. ryght ayenst ryght/sythe condycyon
is good/as it is afore sayde. &c.
¶ Also a man maye gyue lande in the
tayle vpon such condycyon/that yf the
tenaunt in the tayle or hys heyres re-
leace in fee/or in tayle/or for terme of a-
nothers lyfe. &c. And also that yf al the
yssues compynge of the tenaunte in the
tayle be dede without yssue/that than
it shal be lefull to the donour and to his
heyres/to enter. &c. And by suche waye
the ryght of the tayle maye be sayed
after such dyscontynuaunce to the yssue
in the tayle yf there be any/so that by
waye of entre of the donour or of hys
Quare. heyres the tayle shall not be defeted by
suche condycyon/and yet yf the tenaūt
in the tayle in thys case/or his heyres
make any dyscontynuaunce. &c. Ye in
the reuercyon or hys heyres after this
that the tayle is determined for defaut
of yssue. &c. maye enter in to the lande
by force of the same condycyon/& shall
not be driuen to sue a wryt of formedon
in the reuercyon. &c.
¶ Also a man maye not plete in any
accyon

accyon that estate was made in fee/in the taple/or for terme of lyfe vpon condycyon/but if he vouche a recorde therof/or shewe a wrytynge vnder seale prouynge the same condycion/for it is a comon erudycyon and lernynge/that a man by pledyng shall not defete any estate of frankе tenement by force of any suche condycyon/but yf he shewe the prefe of such condycyon in wrytynge.&c. except it be in some especial cause/but of Chatels reals as of a lease made for terme of yeres/or of graūtes of woodes made by wardōs in cyry/and of suche other.&c. A man may plede that such gyftes or graūtes were made vpon condycyon.&c. without shewynge of any wrytynge of condycion/and in the same maner a man may do of gyftes and graūtes of Chatels personels and of contractes personels.&c.

Also thoughe that a man in some accyon may not plede an accyon that toucheth/and conserneth frankе tenement without shewynge of wrytynge therof/as it is aforesayde/ yet a man

Cap.b.

Cap. b. may be volden vpon suche condycyon by the verdyte of twelue men taken at large in assyse of Nouell dysseysyn/ or in some other accyon where the Iuryers wyl take the verdyte of the .xii. into urs at large. As put the case that a man sealed of certayne/land in fee letteth the same lande for terme of lyfe/ without dede vpon condycyon to yelde to the leassour a certayne rent/ & for lak taute of paiment/ a reentre. &c. by force of whyche/ the leassoure is sealed as of frake tenement and after the rente is behynde/ by which the leassoure entreth into the lande/ & after the leasse accyoneth an assyse of Nouell dysseysyn of the lande agaynste the leassoure/ the which pleadeth that he doth no wronge/ ne no dysseysyn/ and vpon thys the assyse is taken.

¶ In thys case the recognysours of the assise may say and yelde to the Iustyces theyr verdyte at large vpon all the matter/ as to saye/ that the demaundaunt was sealed/ and so sealed/ let the same lande to the playntyfe for terme of his lyfe/ to yelde to the leassour such as

an annuel rēt payable at such a feest/ and vpon suche condycyon that yf the rent be behynde at any suche feest that it ought to be payde/ that than it shall be lefull to the leassoure to entre.&c. by force of which lease/ the plaintyfe was seased in his demeane/ as of fraunke tenement/ after the rente was behynde at such a feest in such a yere.&c. for whyche the leassoure entred into the lande vpon the possessyon of the leasse and payeth the dystrecion of the Justyces yf this be a dyssesyn vnto the playntyfe or not. And than for this/ that it appereth to the Justyces/ that thys was no dyssesyn done vnto the playntyfe. In so muche that the entre of the leassour was lawefull vpon hym/ the Justyces ought to gyue iugemēt/ that the playntyfe shall take nothynge by his writ of assyse. And so in suche case the leassour shall be holpen/ and yet no writtynge was neuer made of the condycyon/ for as well as the iurours may haue knowlege of the condycyon that was declared and rehersed vpon the leasse. In the same maner is

Lap.b.

Cap. v. of feoffement in fee or in gyfte in the tayle vpon condycyon/ thoughe neuer wytnesse were made there of. &c. And as it is sayde of a vardyte at large in allyse. &c.

¶ In this same maner it is of a wryt of entre founded vpon disseisyn/ and in all other accyons where the Justyces wyll take a vardit at large there where the verdite at large maketh the nature of the matter put in the yssue.

¶ Also in such where the enquest may say theyr vardyte at large/ if they wyll take vpon them the knowledge of the lawe vpon the matter/ they maye saye theyr vardyte generall as it is put in theyr charge/ as in the cause aforsayde they may well say/ that the lessour dyd seased nat the lessee if they wyll. &c.

¶ Also i the same case/ if the case were suche that after thys that the lessour had entred for defaute of payment &c. that the lessee had entred vpon the lessour and him dysseased. In this case if the lessour arayneth an allyse agaynst the lessee/ the lessee maye barre hym of hys allyse/ for he maye plede agaynst hym

him in barre/howe the lessoure that is playntyfe made a lease to the defendaūt for terme of lyfe/sauing the reuercyon of the plaintyfe/the whyche is a good plee in barre in so much that he knowlegeth the reuercyon to be to the plaintyfe/ and in this case hathe no matter to helpe hym/but the condycyon made vpon the lease/ and that he maye not pledge/for that he hath no wryttynge/ and in so muche that he maye not answere to the barre/he shalbe barred.

Cap. lv.

And so in thys case ye may se that a mā is leased and he shall haue no allyse.

And yet yf the lessee be playntyfe/and the lessour defendaunte/he shall barre the lessee by verdyte of the allyse. But in thys case/where the lessee is defendaunt/if he wyl not plede the saide plee in barre/but plede no wrong nor disseyssyn/ than the lessoure shall recouer by allyse. ꝛc. Causa qua supra.

Also bycause suche condycyons be moste comonly put and specyfyed in dedes endēted/sum ytell thyng shalbe sayde here to the my son of endentures & of a deade poll cōteynyng cōdicions.

And

And it is to wyt that yf the endenture be by pertite or tripertite or quatrypertyte/all the partyes and the endenture be but one dede in the lawe /and euery party of the endenture is of lyke force and effecte/ as all the partyes togyther. And the makyng of endentures is in.ii.maners. One is to make them in the thyrde parson /another maner is to make them in the fyrst parson. The makyng in the thyrd parson/ is as in suche forme.

The fourme of an Indenture in the thyrde parson

¶ Thys endenture made betwene .A. of .B. of the one parte /and .C. of .D. of the other parte/ wytnesseth that the foresayde .A. of .B. hathe gyuen and graũted & by this presẽt dede endented hath confyrmed to the foresayde .C. of .D. suche lãde to haue .&c. vpon the condycyon .&c. In wytnes whereof/ the partyes beforsayde interchaũgeably haue put to theyr scales/ or els thus. In wytnes whereof/ to one parte of this endenture remaynig with the sayd .C. of .D. the foresayde .A. of .B. hath put to hys scale/ & to ye other part of the sayd endenture remaynig with the sayd .A. of .B.

the sayd. L. of. D. hath put to hys seale gyuen. &c. Such endenture is called endeture made i the thyrde ꝓson/ for thys that ye verbes. &c. be i the thyrd ꝓson/ & such forme the endeture is ye more sure makynge/ for thys that it is more comonly vsed/ the makyng of endetures in the fyrst parson is in suche forme. La. b.

¶ To all true cryſten people to whom this ꝓsent writing endented shal come. A. of. B. gretinge in our Lorde euerlasting/ knowe ye me to haue gyuen and graunted/ & by this my ꝓsent dede endented/ to haue cõfirmed to. L. of. D. such land. &c. Or els thus/ knowe al me that be ꝓsente/ and the that be to come that. I. A. of. B. haue giue & graũted & by thys my ꝓsente dede endented haue confyrmed to. L. of. D. such land. &c. to haue. &c. vpõ the cõdicion folowig. In wytnes wherof/ as wel I the sayde. A. of. B. as the forsayde. L. of. D. to these endentures interchãgeably haue put to our seales/ or els thus. In wytnes whereof to one parte of this endenture I haue put to my seale/ & to the other parte of the same endenture the forsayde

An Indenture in the fyrste parson.

Lesp.b. for lay de . L. of. D. hathe put to hys seale .&c.

¶ And it semeth that such an endenture made in the firste p̄son/is as good in the lawe as the endenture made in the thirde person/whan bothe parties haue therto put theyr seales/for in the endenture made in the thyrde parson or in the fyrste parson / yf mencyon be made that the grauntour hath set hys seale onely/& not the grauntee/this is the endenture onely the dede of the grauntour. But where a mencyon is made that the grauntee hathe set his seale to the endenture. &c. than is the endenture as wel the dede of the grauntour as the dede of the grauntee/ and thus it is the dede of bothe / and also euery party of the endenture is the dede of bothe partyes in such case .&c.

¶ Also yf estate be made by endenture to a man for terme of hys lyfe/the remaynder to another in fee vpon condycyons .&c. & if the tenaunt for terme of lyfe/hath set his seale to the partye of the endenture/and after dyeth/ and he if the remaynder, &c. entreth by force

of hys

Estates vpō a cōdycyon. Fo. Cxiii.
of hys remaynder. In tyys case he is holden to perfoyme all the condycyons comprised within the endēture/as the tenaunte for terme of lyfe ought to do in hys lyfe/ & yet he in the remaynder neuer sealed any parcell of the endenture/but the cause is/that in so much that he entreth/ and agreeth to haue the lande by force of the endenture/ he is holden to perfoyme the condycyon within the endenture/ if he wyll haue the lande.&c. Cap.b.

¶Also if a feoffement be made by dede Poll vpon condycyon.&c. And for tyys that the condycion is nat perfoymed/ the feoffoure entreth/and happeth the possessyō of the dede poll/if the lesse brig an accyon of that entre agaynst the feoffoure /it hath bene questyoned yf the lessour maye plede the condycyon.&c. by the dede Poll agaynste the feoffee/ and some haue sayde/nay/in so muche that it semeth vnto them that a dede Poll/and the property of the same dede appertaineth to hym to whom the dede is made/and nat to hym that made the dede. And in so muche that suche a dede

Estates vpon a condycion.

Cap. v.

The pledynge of a condycyon by a dede Poll.

appertayneth not to the feoffour: it semeth to them that he maye nat plede this dede. &c. And other haue sayde the cõtrary/& haue shewed dyuers causes. One is/if the case be suche that in the action betwene them/if the feoffe plede the same dede/ and shewe thys to the courte. In thys case/in so muche that the dede is in the courte/the feoffoure may shewe to the courte/howe in the dede by dyuers condycyons/to be performed of the party of the feoffee/ and for this that they be nat performed he entred. &c. & therto he shalbe receyued/ by the same reason/whan the feoffour hathe the dede in hande/and shewethe it to ye court/he shalbe wel receyued to plede of this. &c. And namely whan the feoffoure is privy to the dede/ for he ought to be privy to the dede/ whan he made the dede.

¶ Also yf two men/make or do a trespas to another/ the whyche releaseth to one of them by hys dede all accyons personels. &c. Nat withstandynge he sueth an accyon of trespas agaynst the other/the defendaunt may well shewe that

that the trespas was done by him/and another his felowe/and that pe plaintife by the dede that he sheweth for the released to his felowe/al actyons þat soueis/& yet suche dede appertayneth to hys felowe/ and nat vnto hym/but for hys that he may haue aduantage by the dede/if he may shewe the dede to the courte/he may well plede therfore by the same reason in the other case whan the feoffoure ought to haue aduauntage by the condycyon comprised with the dede Poll.

¶ Also if the feoffe gaue or graunted the rēte Pol to the feoffour/such graūt shalbe good/and than the rēte/and the propertie of the dede/appertayneth to the feoffour. And whan the feoffour hathe the dede in hande/and pledeth it to the courte/it shalbe the more vnderstande that he came to the dede by a lawful meañ thā by a forcyous meane and so it semeth that they maye well plede such a dede Pol/ that comprehendeth condycyon.&c.if he haue the dede in hande .&c. Ideo semper querre de dubus/ quia per cationes peruenitur

Cap. b.

ad lygittimam rationem.

Estates vpon a condycion in lawe.

¶ Estates that men haue vpon condycyon in the lawe/be suche estates that haue a condycyon in the lawe annexed to them/thoughe it be not specyfyed in wrytynge/so as a man graunt by hys dede in another the offyce of a parkeshyp of a parke to haue and to occuppe the same offyce for terme of hys lyfe/ the estate that he hath in the offyce is vpon condycyon in the lawe/that is to saye/ that the parker/wel and truely shall kepe the parke /and do thys that to his offyce appertayneth to do/ or otherwyse that it shall be lefull to the grauntoure and to hys heyres to put hym out/and to graunte that to another yf he wyll.&c. And suche condycyon as is vnderstande by the lawe to be annexed to some thynge is as stronge as yf the condycyon were set or put in wrytynge. In the same maner it is of graūtes of offyces/of stewardes /constables/bedles/baylyfs/ and other offycers/but yf such offyce be graūted to a mā to haue & to occupy by hi or by his deputy/thā if the office be occuppyed by him or by his deputy as it ought by the

lawe to be occupyed/thys sufficyeth for Cap. 6.
hym/or els the grauntour or hys heires
maye put him out/as it is aforesayde.
¶ Also estates of landes or tenementes
maye be vpon condycyon in the lawe/
thoughe that vpon the estate made /
there was no rehersall made of the con-
dycions/as put the case that a lease be
made to the husbande and his wyfe/to
haue and to holde to them duringe the
coverture betwene them in thys case
they haue estate for terme of their two
lyues vpon condycyon in lawe/that is
to say/ yf one of them dye/or if deuorce
be made betwene them / that than it
shall be lefull to the leassoure and hys
heyres to entre.&c and that they haue
estate for terme of theyre two lyues it
is proued thys. Euery man that hath
estate or Franke tenemēt in any landes
or tenementes / eyther he hathe estate
in fee/or in Fee taile/or for terme of life/
or for terme of anothers lyfe / and by
such lease/they haue Franke tenemēt.
But they haue not by that graunte fee
nor for taple / nor for terme of ano-
thers lyfe. Ergo they haue estate for

terme

Cap.b. terme of theyr.ii. lyues / but thys is vpon condycyon in the lawe in forme aforsayd. And in this case if they make waste/ the lessour shall haue agaynste them a wryt of waste /suppolynge by his wryt. Quod tenent ad terminum vite. &c. but in his plee/ he shall declare howe/ & in what maner/ the lease was made/ i pc same maner it is if an abbot make a lease to a mā to haue & to holde duryng the tyme pc the leassour is abbot. In this case the leassee hath estate for terme of his owne lyfe/ but thys is vpon condicion in lawe/ that is to say/ that yf the abbot dye/ or relygne to be deposed/ that it shalbe lefull to hys successours to entre. &c. Also a man maye se in the boke of assyse. Anno. xxxviii. E.iii. a plee in assise in this forme that ensueth. Assise of Nouel disseasin was somtyme brought against one. A. that pleded to the assise/ and was founde by verdyte that pe auncestre of the playntyfe wrayed the tenementes to be solde by the defendaunt that was hys executour to make dystrybucyon of the money for his soule/ & it was founde that

A generall writ & a speciall declaracion.

a man

a man after the dethe of the testatour/ tendered vym certayne some of money for the tenemētes but not to the value/ and that the executour after helde the tenementes in his owne hande by .ii. yere to the entent to haue sold the tenementes the more derer to some other/ and it was founde/ that he had al this whyle after taken the profytes of the tenementes to his owne vse/ withoute any thynge doynge for the soule of the dede. Nombray the executour in such case is holden by the lawe to make the sale as sone as he may/ after the dethe of the testatour/ & it is founde that he refused to make the sale & so yᵉ defaute was in vym/ and also by force of the deuyse he was holden to haue put all the profytes of the sayd tenementes to the dethes vse/ & it is founde that he hathe take thē to hys owne vse/ & so another defaute is i vym/ wherfore it was adiuged that the plaintyfe shuld recouer. &c. And so it apereth by the sayd iugemēt yᵗ by force of the sayd deuyse the executour had none estate nor power in the tēres but vpō cōdicion i the lawe. &c. Cap. b.

A iudgement.

And i such cases it nedeth not to haue shewed any dede reherſynge the condycyons.&c. Et paucis dicitur intendere plurima possis. More shall be sayde of condycyons in the chapytre of dyſcentes that taketh away entre/and in the chapytre of Relesses/and in the chapytre of dyſcontynuaunce.

Dyſcentes. Cap.vi.

La.vi. DYſcents that take away entrees be in.ii.maners/that is to saye/ where ỹ deſcẽte is in fee/or i Fee tayle. Dyſcẽte in fee/that taketh away entre is if a man ſeased of certayne landes or tenementes is diſſeaſed/and the diſſeſour hathe yſſue & dieth/of ſuch eſtate. But nowe the tenementes deſcende to the yſſue of the dyſſeaſour by courſe of the lawe/as heyre vnto him.

¶ And for this ỹ the lawe putteth the landes or tenemẽtes vpon the yſſue of the diſſeaſour yᵗ by force of the dyſcẽt/ ſo the yſſue cometh to the tenementes by courſe of the law & not by his owne dede; the entre of the dyſſeaſy is taken away/& is therof put to sue his writ of entre vpon dyſſeyſyn agaynſt yᵉ heyre of the

of the dysseasour/to recouer the lande. Cap.bi.
¶Dyscent in the tayle that taketh away entre/is if a man be disseased and the dysseasoure gyueth the same lande to another i the tayle/and the tenaunt in the tayle hathe yssue and dyeth seased of such estate/and the yssue entreth in thys case the entre of the dysseasy/ is taken awaye / and he is put to sue agaynste the yssue of the tenaunte in the tayle a wryt of entre vpon dysseasyn.&c. A dyscent in tayle
¶And note well that in suche dyscentes that take away entres it behoueth that a man dye seased in hys demesne as in fee tayle / for dyenge seased for terme of lyfe/ or for terme of anothers lyfe shal neuer take away the entre.&c.
¶Also a dyscent of reuercyon or of re mayndre shall neuer take away entre. &c.so that such cases that take awaye entrees by force of dyscentes/ it behoueth that he that dieth seased/haue fee and franke tenemente at the tyme of his dyenge/or els suche dyscent taketh taketh not away entre.
¶Also as it is sayde of dyscentes the

Cap. vi. dyscende to the yssue of him that dyeth seased. ꝛc. the same lawe is where they haue none issue/ but the tenemētes dyscende to ye brother/ or to the sister/ or to the uncle/ or to some other coslyn of his that dyeth seased. ꝛc.

¶ Also yf there be lorde and tenaunt/ and the tenaunt be dysseased/ and the dysseasour alyeneth to another in fee/ and the alyenee dyeth without heyre/ and the lord entreth as in his eschete. In thys case/ the dysseasye may entre upon the lorde/ for thys that the lord cometh not to the lande by dyscent but by eschete.

¶.6. ¶ Also if a mā seased of certayne lande
¶/7. in fee/ or in fee tayle/ upon cōdicion to yelde certayne rent/ or upon other condycyon thoughe that suche tenaunt seased i fee or i fe tayle dye seased/ yet if the cōdicion be broken i theyr lyfe or after theyr decease. ꝛc. thys taketh not away the entre of the feoffour/ nor of the donour/ or ef theyr heyres/ for this that the tenauncy is charged with the condicion in the estate of the tenauncy is condicionel/ in whose handes soeuer

the tenaunce ſhall come .ꝛc.

¶ Alſo ꝛ if ſuche a tenaũt vpon condycyon be dyſſeaſed/and the dyſſeaſoure dye therof ſeaſed/ꝛ the land deſcendeth to the heyre of the diſſeaſour/now the entre of the tenaũte vpon condycyon that was dyſſeiſed/is taken away/but yet if the condicion be broken.ꝛc.than may the feoffour or the donoure that made the eſtate or theyr heyres entre. Ca.vi.
ꝛc. Cauſa qua ſupra.

¶ Alſo yf a diſſeaſoure dye ſeaſed/and hys heyres entre . ꝛc . the whiche entreth the wyfe of the diſſeaſour of ye thirde parte of the tenementes/in this caſe as to the thyrde parte that is aſſygned to the wyfe in dower/ incontynent anone after that the wife entreth & hath the poſſeſſion of the ſame thirde parte/the dyſcreyſy may lawfully entre vpon the poſſeſſyon of the wyfe/in the ſame thirde parte. And the cauſe is for this that whan the wyfe hath her dower ſhe ſhall be adiuged rather immmedyatly by her huſbande and not by the heire/and ſo as to the franke tenement of the ſame thyrde parte/the dyſ-

cens

rent is deleted/and so may ye se dowe
Ca.vi. before ye dowement the dissesy might not entre in any parte.&c. and after the dowemēt he may entre vpon the wyfe and yet he maye not entre vpon the other. ii. partyes that the heyre of the dysseasour hath by dyscent.&c.

¶Also yf a woman be seased of lande in fee/wherof I haue rygbte and tytly to entre/if the womā take an husbande and haue yssue betwene them/ & after the wyfe dyeth seased / and after that the husbande dyeth / and the yssue entreth.&c. In thys case I may entre vpon the possessyō of the yssue/for this that the yssue cometh not to the tenementes immedyatly by dyscente after the deth of his mother

¶Also if a disseasour enfeoffe his father and the father entreth and dyeth of the estate seased/ by whyche the tenementes descende to the dysseasoure/as to the sonne and heire.&c. In this case the dysseasy maye well entre vpon the dysseasour/notwithstandynge the dyscente/for thys that as to the dysseysyn the dysseasoure shall be adiudged in

but

but as dyssesoure/not withstandinge the dyscent.&c. Ca.vi.

¶Also yf a man seased of certayne landes in dys demeane as of fee/and hath issue.ii.sonnes & dieth/and the ponger son entreth by abatement in the land/ the whych hath issue/and of this dieth seased/and the tenementes discende to the yssue/and the issue entreth into the lande/in thys case/the elder son or dys heires may enter by the lawe vpon the yssue of the ponger son/ notwithstandynge the dyscent/for thys that whan the ponger sonne abated in the lande after the deth of dys father before any entre of the elder/ the lawe entendeth/ that he entred in the clempng as heyre vnto dys father/and for thys that the elder brother claimeth by the same title/ that is to saye as/heyre vnto dys father/he and dys heyres/maye enter vpon the yssue of the ponger brother/ notwithstandynge the dyscente.&c.for this that they clayme by one selfe title ¶ in the samemaner it shall be yf there be many dyscentes from one yssue of the ponger son.&c.But in suche case if

¶ Thys case is iudged. 4.of.E. 4.in the xv.leafe.

the

Ca.vi. the father were ſeaſed of certayn lāde in fee/ and hathe yſſue two ſonnes and dyeth/ and the elder ſonne entreth/ and is ſeaſed. ꝛc. And after the ponger brother diſſeaſeth hym/ by whyche diſſeyſyn he is ſeaſed of fee/ and hathe yſſue/ and of ſuche eſtate dyeth ſeaſed/ than the elder brother may not enter/ but is put to hys writ of entre vpō diſſeyſyn for to recouer the lande. And the cauſe is for this/ that the ponger brother cometh to the tenementes by a wronge diſſeyſyn made vnto his elder brother. And for that wrong/ the lawe may not entende that he claime as heyre to his father no more than a ſtraūge perſon that had diſſeaſed the elder brother that neuer had any tytle. ꝛc. And ſo may ye ſe the diuerſyte where the ponger brother entereth after the deth of hys father/ before any entre made by the elder brother/ in ſuche caſe. ꝛc. And where the elder brother entreth after the deth of his father/ and is diſſeaſed by the ponger brother. ꝛc. In the ſame maner if a mā ſeaſed of certayne lande in fee hathe yſſue .ii. doughters/ and

dyeth

dyethe/and the elder doughter entreth in the lande claymyng all the lande to her/s therof onely taketh the profytes and hath issue/and dieth seased by whi the her issue entreth/which yssue hath yssue and dyeth seased/and the seconde yssue entreth .&c. Et sic vltra/ yet the ponger doughter and her yssue as to the halfe mayt enter vpon euery yssue of the elder doughter/not withstandynge such dyscent/for thys that they claime by one seife tytle.&c.But in suche case yf bothe two systers com in to the land to enter after the deth of theyr father/and therof were seased/& after the elder syster therof dysseased ye ponger sister of that/that to her belongeth/ and therof is seased in fee/ and hathe yssue/and of suche estate dyeth seased/ by whyche the tenementes discende to the yssue of the elder syster/ than the ponger syster or her heyres maye not enter.&c. Causa qua supra. Cap.v.

¶Also if a mā seased of certayne lande hathe yssue two sonnes/ and the elder brother is bastarde/ and the ponger brother mulier/ and the father dyeth

and

Ca.vi. and the basterde entreth and claymeth as heyre vnto hys father/& occupyeth the lande all hys lyfe without any enter made vpon hym by the mulier/and the basterde hathe yssue/and dyet he of suche estate seased in fee/and the lande descendeth to hys yssue/ and hys yssue entreth.&c. in thys case/the mulier is without remedy/ for he may not enter nor he shall haue no accyon for to recouer the lande/for thys that there is an auncyent lawe in suche case vsed/ but it hathe bene an oppynyon of some men that shall be vnderstande where the father hathe a sonne a basterde by a woman / and after he weddeth the same woman/and after the spousayle he hathe yssue by the same woman a sonne or a doughter mulier / and the father dyeth .&c. If such a basterde enter.&c.And hath yssue/and dyeth seased .&c.Than shall the yssue of suche a basterde haue the lande clerely to hym as it is aforesayde.&c.And nat any other bastarde borne of the mother that was not espoused to hys father/ and thys is a good and reasonable opynyō.

For

for suche a bastarde borne before the espousels solempnysed betwene hys father & hys mother/by the lawe of holy churche is mulier/thoughe that by the lawe of the lande/he is a bastarde borne & so he hath coloure of entre as heyre to his father/for this that he is by one lawe mulier/that is to say/by the lawe of holy chyrch. But otherwyse it is of a bastarde & hath no maner of coloure to enter as heyre/in so muche that he may not in no lawe be sayd mulier.&c. for such a bastarde is sayd. Quasi nullius filius. But in suche case aforsayde where ꝑ bastard entreth after the deth of his father/& the mulier putteth him out/& after the bastarde dyssaseth the mulier/& hath issue/& dyeth seased/and the issue entreth/than the mulier may have a wrytt of entre vpon dyssasyn against ꝑ issue of the bastard/& recouer the land.&c. And so maye ye se the dyuersite where such a bastard cõtinueth hys possessyon all his life without any interrupcyon/ and where the mulier entreth and interrupteth the possessyon of suche a bastarde.

Ca.vi.

M.i. CAlso

La.vi. ¶ Also if a chylde within age haue title and cause to enter in to any landes or tenementes vpon another that is seased in fee or in ye tayle of the same landes and tenementes/if such a man that is so seased dye of suche estate/so seased/ the tenementes discend to hys yssue during the tyme that the chylde is within age/ suche discente shall not tolle the entre of the chylde but that he may enter vpon the yssue that is in by discent &c. for this p^t no laches shalbe adiuged in a chylde within age in such case. &c.

¶ Also if the husbande & his wyfe as in right of the wyfe haue tytle & tyght to enter in the tenementes that another hath in fee or in ye tayle/and such a tenaunt dieth seased. &c. In such case the entre of the husbande is taken a wayue vpon the heyre that is by discent. But if the husbande dye/than the wife may well enter vpon the yssue by discente/ for this p^t the laches of the husbande shal not turne to p^e wife & to her heyre in preiudice nor damage/ in such case/ but that the wife and her heyres maye well enter/ where suche discent is dur-

ryng

tynge the conuetture.&c.

Ca.vi.

¶Also if a mā p^t is not of hole mynde that is to say in Latin. Qui non est compos mentis/hath cause to enter in any such tenementes if suche dyscent. vīs. be had in his tyte during the time that he was out of hys mynd/and after dye his heyre may wel enter vpō him that is by dyscent. And in this maye ye se a case that the heyre may enter/and yet hys auncestor that had the same tytle maye not enter/for he that was out of hys mynde at the tyme of such descente if he wyll enter after suche a dyscent/if accyō vpon this be sued agaynst hym/he hath nothyng for him to plede or to helpe him/but saye that he was out of mynde at the tyme of suche dyscent. ¶ And he shall not be receyued to saye this/for this that no mā of ful age shal be receyued in any plee by the lawe to dyssaite or dyssable hys owne parsone. But the heyre maye well dyssable the parsō of his auncestor for aduauntage of the heyre in suche case/for thys that no lacbes may be aduuged by the lawe in hym that hathe no dyscretyon in

Cap.vi. suche case. And yf suche a man out of his mynde make a feoffement.&c. he maye not enter ne haue a wryt called. Dum non fuit compos mentis .&c. causa qua supra. But after hys dethe/his heyre may well enter or haue the same wryt. Dum non fuit compos mentis at hys electyon.&c.

T.xii. E.iii. ☞ Also yf I be dysseased by a chylde within age that aleyeneth to another in fee/and the aleyen dyeth seased/and the tenementes descende to his heyre/ & the chylde beynge within age/myne entre is taken away. But if the chylde within age enter vpon the heyre that is in by descente/ as he well maye/for thys that the descente was duryng hys nonage/ than I maye well entre vpon the dysseasy/for this that by hys entre he hath defeted and annulled the descente. And in the same maner it is where I am seased/and the dysseasour maketh a feoffement in fee vpon condicyon.&c. And the feoffe dyeth of such estate seased.&c. I may not enter vpon the heyre of the feoffee. But yf the condycyon be broken so that by such cause

T.xii. E.iiii.

the feoffoure entreth vpon the heyre nowe maye I well entre/for this that whan the feoffour or hys heyres entre for the condeyson broken/the discente is vtterly defeted. Ca.vi.

¶Also yf I be dysseased/and the dysseasoure hathe yssue and entreth in to reygyon/ by force of whiche the landes descendeth to hys yssue / in thys case I maye well entre vpon the yssue/ and yet there was a dyscente. But for this that suche dyscente comethe to the yssue by the fathers dede/ that is to saye / for thys that he entred in to reygyon. &c. and the dyscente comethe to hym by the dede of god/that is to saye/by dethe. &c. myne entre is congeable and lawefull /for yf I arrayne assyse of Nouell dysseysyn agaynste my dysseasoure/thoughe that he after entre in to reygyon / thys shall not abate my wrytte. But my wryt/thys notwithstandynge shall abyde in hys force and strength and my recouere agaynste hym shall be good/ by the same reason the dyscente that came to his issue by his owne dede may

not

not put me fro my ne entre. &c.

Cap. vi. ¶ Also yf I lette to a man certayne landes for terme of .xx. yeres/ and ano ther dysseaseth me/ & putteth oute the terme/ and dyeth seased / and the tenementes descende vpon hys heyre / I maye not entre/and yet the lesse for terme of yeres may wel entre/for this that by hys entre he putteth not oute the heyre that is in by dyscent fro the Franke tenemente that vnto hym descended. But onely to haue tenementes for terme of yeres/ the wyche is no expulsyng of the Franke tenement of the heyre that is in by dyscente. But otherwyse it is where my tenaūt to terme of lyfe is dysseased. &c. Causa qua supra. &c.

Adyner lyte. ¶ Also it is sayde that if a man seased of tenementes in fee by occupacyon in tyme of warre /and dieth therof seased in tyme of warre/and the tenementes descende to hys heyre / suche dyscente putteth out no man of hys entre. And of thys a man se a pie in a wryt de Ayel. Anno, vii. E. ii.

¶ Also no dyenge seased where all the

the tenementes cometh to another by succession shall take away the entre of any person.&c. For of prelates abbottes prioures/deanes/ or prones of chyrches.&c. though ꝑ there were twenty successions/this putteth no man from his entre . &c . More shall be sayde of dyscentes in the chappytre of contynuall clayme.&c. As.bll.

Contynuall clayme.

Capt.viii.

Contynuall clayme is/where a mā hath tyght and tytle to entre in any landes or tenementes wherof another is seased in fe or i fe tayle/ the that hath tytle to entre make contynuall clayme to the landes and tenementes before the dyeng seased of him that holdeth the tenementes. Than though suche a tenaunte dye therof seased and the landes and tenementes descende to hys heyre/yet maye he that hathe made suche clayme or hys heyres entre in to the landes and tenementes descended / because of the

contynuall

Cap. bi

contynuall clayme made. Not-
withstandynge suche dysceute. As in
case a man be dysseased/ & the dysseasy
make the contynuall clayme to the te
nementes in the ly fe of the dysseasour
though the dysseasour dye seased in fe/
e the lāde discēdeth vnto his heires/ yet
may ꝑ dysseasy entre vpō pᵉ possessiō of
the heyre/ notwᵗstanding such discent.
¶ In the same maner it is/ if tenaunt
to terme of lyfe alyen in fee/ he in the
reuercyon/ or he in the remaindre may
entre vpon the alyene. And yf such
alyene seased of such estate without
cōtinuall clayme made to the tenemen
tes before the dyeng seased of pᵉ alyene
and the tenementes bycause of the dy
enge seased of the alyene descende vnto
the heire of the alyenee. Than ne may
not he in the reuercyon/ nor he in the
remaynder entre. But yf he i the reuer
cyon/ or he in the remaynder that hath
cause to entre vpō the aliene made con
tynuall clayme to the tenementes be-
fore the dyenge seased of the alyene/
than suche a man may entre after the
deth of the alyene as wel as he myght
in his

in his lyfe.&c. Cap.v.

¶Also yf landes be lette vnto a man for terme of his lyfe/the remaindre vnto a nother for terme of lyfe / the remaindre to the thyrde in fee/ yf the tenaūt to terme of lyfe alyen to another in fee/& he in the remaindre for terme of lyfe maketh continual clayme vnto the lande before the dyenge seased of the alyene/and after the alyenee dyeth seased. &c. and after he in the remaindre for terme of lyfe dyeth before any entre made by hym.

¶In thys case he in the remaindre in fee maye entre vpon the heyre of the alyence/bycause of contynuall clayme made by hym that made the remaindre for terme of lyfe / for thys that suche ryght that he hathe to entre shall go and remayne to him in the remaindre after hym / in so muche that he in the remaindre in fee maye not entre vpon the alyenee in fee/ duryng the lyfe of him in the remaindre for terme of lyfe and bycause he myght not make contynual clayme/ but whan he had tytle to entre. But it is to se to the my child

The .viii.

howe & in what maner such continuall clayme shalbe made/and to lerne this. Thre thinges ther be to be vnderstãde

☞ In what wyse clayme ought tobe made.

¶ The fyrst thynge is/yf a man haue cause to enter in any lãdes or tenemen tes in dyuers townes within one shyre yf he enter in any parcel of the landes or tenementes that be in one towne in the name of the landes or tenementes that bene in one towne to whyche he hath right to entre w^t^in al the townes in p^t^ same shyre/by suche entre he hath as good possession and seasyn of suche landes or tenemẽtes wherof he hath tytle to entre as yf he had entred in to euery parcell /and thys semeth greate reason/for yf a man wyll enfeoffe another without dede of certayne lãdes or tenemẽtes p^t^ he hath in many townes within one shyre/ and he wyll delyuer seasyn to the feoffee of parcell of the tenemẽtes w^t^in one towne in the name of all the landes and tenementes that he hathe in the same towne/and in all the other townes.ꝛc. all the sayde tenementes. ꝛc. shall passe by force of the sayd lyuere of seasyn to him to whome suche

such feoffement in such maner is made And yet he to whom such liuere of seasyn is made/hathe no ryght to all the landes & tenementes in al the townes but bycause of ye liuere of seasin made of parcell of the landes or tenementes in one towne. A multo fortiori. It semeth good reason / that whan a man hath tytle to entre into landes or tenementes in diuers townes within one shyre/before any entre by hym made/ that by ye entre of him made in parcell of the tenementes in one towne in the name of al the landes and tenementes to the which he hathe tytle to entre wt in the same shyre/this is a seasyn of al in him/& by suche entre he hath possession and seasyn in dede/as if he had entred into euery parcell.&c. La.bii.

¶ The seconde is to vnderstande/that yf a man haue tytle to entre into any landes or tenementes / yf he dare not entre in the same landes or tenemtes/ nor in any parcell therof for doubte of betynge/ or for doubte of maymynge/ or for doubte of bothe/ yf he go and approche as nyghe the tenementes as he

he dare for such doubte and clayme by wordes the tenementes to be his incontynente by such clayme / he hath a possessyon and sealyn in the tenementes as well as yf he had entred in dede / though he had neuer possessyon or seasyn of the same landes or tenementes before the sayd clayme. And that the lawe is such / it is well proued by a plee of an assyse in the boke of assyse. Anno xxxvnt. Edwardi. iii. The tenure of which ensueth in thys forme.

¶ In the countye of Dorset before the same Justyces it was founden by verdyte of assyse that the plaintyfe which had ryght by dyscente of herytage to haue the tenementes put in playnte at the tyme of the dethe of his auncestre whiche was dwellynge in the towne where the tenementes were / and by word claymeth the tenemētes among his neyghbours / but for doubte of dethe durst not approche vnto the tenementes / but bringeth assyse / and vpon the matter founde / it was awarded that he shulde recouer

¶ The thyrde thing is to vnderstande within

within what tyme the clayme that ys
sayd contynuall clayme shal serue/and Cap.v.
helpe him that maketh the claime and
hys heyre. And as to thys it is to wyt
that he that hath tytle to enter whan
he wyll make hys clayme/s yf he dare
approche vnto the lande. Than it be-
houeth hym to go vnto the lande or to
parcel of it/and make his clayme/and
if he dare not approche vnto the lande
for drede of betynge/maynem/or deth/
than it behoueth him to go/and to ap-
proche as nyghe as he dare towarde
the lande or parcell therof/s make hys
clayme. And yf hys aduersary that oc-
cupyeth the lãde/dye seased in fee or in
fe tayle within a yere and a day after
suche clayme made/by which the tene
mentes descende vnto his son as heyre
vnto hym/yet maye he that made the
clayme enter vpõ the possessyon of the
heyres. But in this case after the yere
and the daye that suche clayme was
made/if none other clayme be made/if
the father than dye seased/the morowe
after the yere and the day / or at ano-
ther day after .&c. thã may not he that

made

La.vii. made the clayme enter. And therefore/yf he that made the clayme wyll be sure alway that hys entre shall not be taken awaye by suche dyscente / it behoueth hym that within the yere and the daye after the fyrste claime/to make another clayme in the fourme a forsayde. And within the yere / and the daye after the seconde clayme / to make the thyrde clayme in the same maner / and within the yere and the daye after the thyrde clayme/ to make another clayme and so forth/that is to saye/ to make another clayme within euery yere and day nexte after euery clayme made duryng the lyfe of his aduersary / and than at what tyme that hys aduersary dye / hys entre shall not be taken away by no suche dyscent. And such clayme made in suche maner is most comonly take/& called cõtinuall clayme of him that made the claime But yet in case aforsayd where hys aduersary dyeth within the yere and the day nexte after the fyrst clayme/this is in the lawe a contynuall clayme/in so muche that his aduersary died within

the

the yere and the daye after the same claymc/ for it is no mede for hym that made the claymc to make any other claymc/ but at that tyme that he with in the same yere and the day. &c. Ca. viii.

¶ Also yf thys aduersary be dysseased within the yere and a daye after the claymc/ and the dissesoure dyeth ther of seased within the yere and the daye. &c. Thys dyenge seased shall nat hurte hym that made the claymc/ but that he maye entre. &c. For who soeuer he be that dyeth seased within the yere and the day after suche claymc/ that shall not hurte hym that made the claymc/ but that he may entre/ though there were many dyenges seased and many dyscentes within the yere and the daye. &c.

¶ Also yf a man be dysseased and the dysseasoure dye seased within the yere and the day nexte after the dysseasyn done/ wherby the tenementes dyscende to hys heyre/ in thys case the entre of the dysseasy is taken awaye for the yere and the daye that shulde helpe the dysseasy in suche case. &c. shall nat be

Ca.vi. taken frome the tyme of the tytle ofen ter growen vnto hym/but onely from the tyme of the clayme by hym made/ in tyme afore sayd. And for that cause it shalbe good for suche a dysseasy for to make his clayme .&c. In as shorte tyme as he may after the dysseasyn.&c

¶Also yf suche a dysseasoure occupye the lãde by.xi.yeres w^tout any clayme made by the disseasy.&c.& the dysseasy by lytell space before the dethe of the dysseasoure make clayme i the forme afore sayd/ yf so it fortune that within a yere and a day after such clayme the dysseasoure dye seased.&c. the entre of the dysseasy is congeable/and for this it shalbe good for such a mã that made no clayme that hath tytle to enter.&c. when he vnderstandeth that his aduersary is dede sythe to make hys clayme.&c.

¶Also as it is sayde in the cases put before where a man hath title to enter bycause of a dysseasyn.&c . The same lawe is where a man hath ryght to enter bycause of othe tytle .&c.

¶Also in thys sayde prysoners may ye knowe my chylde two thyng.s. One

is where a man hathe tytle to enter vpon a tenaũte in Tayle if he make any suche clayme to the lande. &c. Than is the state of the tayle defeted / for that clayme is as an entre made by hym / & is of the same effecte in the lawe as he were vpon the same tenementes / and had entred in the same tenementes as is aforesaid. And thã whan the tenaũt in taile immediately after such clayme contynueth hys occupacyon in the tenementes / thys is a dysseasyn made of the same tenementes vnto hym that made the clayme. Et sic per consequens The tenaunt than hath fee symple. &c ¶ The seconde tynge is / that as ofte as he that hath tyght to enter maketh such clayme / & this notwithstandinge his aduersary contayneth his occupacyon. &c. so ofte the aduersary doth wrong & dysseasyn to hym that made the clayme. And by this case so often may he that made the same clayme for euery such wrong & dysseasyn made vnto him / haue a wryt of trespas. Quare clausum suum fregit. &c. to recouer his damages. &c. Or he may haue a wryte

Ca. xii.

Ca. viii. vpon the statute of kynge Rychard the seconde made the fyfte yere of hys raygne / suppolynge by hys wryt that hys aduersary hathe entred in to the landes or tenemētes of hym that made the clayme where hys entre was not gyuen by the law. &c. & by such accyon he shall recouer his damages .&c. And yf the case be suche that the aduersary occupy the tenementes with force and armes / or with a multitude of people at the tyme of suche clayme .&c. Than may he that made the clayme for euery such tyme haue a wryt of forcible entre and recouer hys terrible damages. ¶ Also here it is to se yf the seruaunte of a man that hath tytle of entre may by the cōmaundement of his mayster make cōtynual clayme for his mayster in hys name / & it semyth that in some cases he maye do this / for yf he by his commaundement come to any parcell of the lande and there maketh clayme &c. In the name of hys mayster / hys clayme is good for his master / for thys that he hath done all that that it behoued his mayster to do in suche case. &c.

Also

¶ Also if a master saye vnto hys seruaũt that he dare not go vnto the lãde nor to any parcell of the lande for to make his clayme. &c. and dare nat approche nere vnto the sayd lande saue to suche a place called Dale / and commaundeth hys seruaunt to go to the same place of Dale / & ther to make a clayme for him. &c. yf the seruaunt so do. &c. thys semeth as good clayme for his mayster as yf he had bene there in his owne parson / for thys that the seruaunt dyd all that his master durst do & ought to do by the lawe in suche case. ¶ Also yf a man be so sycke or so lame that he may not in no maner come to the lãde nor to any parcel of the same / or yf ther be a recluse that may not by cause of his order go out of his house &c. if such a maner parson cõmaũde his seruaũt to go & make clayme for his &c. & the seruaũt dare not go vnto the lãde nor to any parcell therof for doubte of beynge maymed or dethe. and for that cause such seruaũt cometh as nyghe vnto the lande as he dare for such dreade & maketh such clayme. &c. for his master

Ca. viii. it semeth that such clayme for hys master is good and strong in the lawe/ for els his mayster shulde be in to greate myschefe/ for it may well be that suche a ploughman is sicke or lame/ or refuseth/ can not finde any seruaūt that dare go vnto the lāde nor to any parcel of it to make pᵉ clayme for him. ꝛc. But yf the mayster of suche a seruaunt be in good helth/ & may & dare well go to the tenementes or to parcell of it to make hys clayme for him. ꝛc. yf such a master cōmaūde his seruaunt to go to some parcell of the lande/ and make clayme for him. ꝛc. And whā the seruaūt is in goynge to do the cōmaundemente of hys mayster he herith by the ways suche thynges pᵗ he dare not go to any parcel of the land for to make any clayme for his master/ & for that cause he goth as nygh vnto the lande as he dare for doubte of deth/ and there he maketh clayme for hys master/ & the name of his master. ꝛc. Yt semeth pᵗ the doubte in the lawe in suche cāse shalbe vf suche clayme auayleth to his mayster or not/ for thys that the seruaunt dyd not

all thys that thys mayster at the tyme of commaũdemẽt durst haue done. &c.

¶ Also some haue sayd that where a man is in prysone & is dysseased & the dysseasour dyeth seased during the time that the dysseasy is in prysone/ by which tenementes dyscende to the heyre of the dysseasour/ they haue sayde that thys shall not hurte the dysseasy that is in prysone/ but that he may well entre/ notwithstandynge suche dyscent/ for thys that he may not make cõtinual claime whan he was in prysone. And also yf suche a one that is in prysone be outlawed in an accyon of dette or trespas or in appele of robery. &c. he shal reuerse suche outlawry by wryt of errour. &c. bycause he was in prysone at the tyme of outlawry agaīst hym prouoūced. &c.

¶ Also if a recouerye be had by dyscent against suche a one that is in prysone/ he shal auoyde the iugement by a wryt of errour for thys that he was in prysone at the tyme of such defaute made. &c. And bycause that suche matters of recorde shall not hurte them that be in prysone but that it shall be reuersyd. &c.

Ka. bii.

☞ Concernyng thys matter seke the opiniõs of the iustices. P. 6. P. 6.

Contynuall clayme.

A multo fortiori/it semeth that a matter in dede/that is to saye/such dyscent had whan he was in prison shall nat hurte him/&c. specially for this that he may not go out of prison to make contynuall clayme/&c.

¶ And in the same maner it semeth to them whyche a man is out of the realme in the kynges seruyce for busynes of the realme/and yf a man be dysseased whan he is in the seruyce of the kynge that such dyscent shal nat hurte the dysseasee/but for thys that he myght not make contynuall clayme/&c. it semeth vnto them yᵗ whan he cometh agayne in to Englande he maye enter agayne vpon the heyre of the dysseasour/&c. For suche a man shall recouere an outlawry that is pronounced agaynst hym durynge the tyme that he is in seruyce &c. Ergo a multo fortiori/. He shall haue ayde by the lawe in the other case/&c.

¶ Also other haue sayde that if a man be out of the realme thoughe he be nat in the kynges seruyce/yf suche a man beynge out of the realme be dysseased

of lādes or tenemētes within the realme Ca. vii.
e the dysseasour dye seased. &c. the dys-
seasy beyng out of the realme it semeth
vnto the p^t whan the dysseasy cometh
into p^e realme p^t he may well ēter vpō
the heyre of the dysseasour. &c. & thys
semeth vnto them for two causes.
One is/that he that is out of the
realme may not haue knowlege of the
dysseasyn made vnto hi by vnderstan-
dyng of the lawe/no more than that a
thynge done out of the realme may be
reped within the same realme by the
othe of twelue mē. &c. & to cōpell such a
mā to make cōtynuall clayme whiche
by the vnderstandyng of the lawe can
haue no knowlege or cognysaunce of
such dysseasyn made or done/this shal
be inconuenyent/namely whan suche a
dysseasyn is done vnto hi whā he was
out of the realme/and also the dyenge
seased was done whan he was out of
the realme. For in suche case he ne
maye nat by possebylyte after the co-
mon presumpcyon make no contynu-
all clayme/but otherwyse it shalbe yf
the disseasy were within the realme at

Of the tyme all clayme
the tyme of the disseysyn or at the time
of the dyenge seased of the dysseasour,
&c. Another matter they alledged for a
proffet that whan the statute of Kynge
Edward the thyrde the .xxxviii. yere of
hys raygne/ by which estate non clayme
is oute &c. the lawe was suche/ that yf
a fyne were leuied of certayne lãdes or
tenementes/ yf any that was a straun
ger to the fyne had rygbt to haue and
to recouer the same landes or tenemen
tes/ yf he came not & made his clayme
therof within a yere and a daye nexte
after the fyne leuyed/ he shalbe barred
forever. Quia dicebatur finis quod fi-
nem litibus imponebat. And that the
lawe was suche/ it is proued by the sta-
tute of westm in stre the seconde. De do
nis condicionalibus/ where it speketh
yf the fyne be leuyed of tenãtes gyuen
in the taple. &c. Quod fines ipso iure
sit nullus/ nec habeant heredes aut illi
quos spectat reuercio licet plene etatis
fuit in anglia extra personam necesse
abhoncre clameum suum. So it is pro
ued that if a straunger that hath right
vnto the tenementes yf he were oute
of the

A dyuer
syte.

of the realme at the tyme of the fyne le- C.a.vii.
uyed. &c. shal haue no damage though that suche fyne was matter of recorde by greater reason it semeth vnto them that a dysseasyn and a dyscent that is matter and dede shall not so greue him that was dysseased whā he was out of the realme at the tyme of the dysseasin and also at the tyme p^t the dysseasour dyed seased. &c. but that he may well entre not withstandynge suche dyscente.

¶ Also enquyre yf a man be dysseased and he arrayne assise against p^e dysseasour/ and the recognitours of p^e assise chalenge for the playntyfe/ and the iustyces of the assyse wyll be aduysed of theyr iugementes vntyll the nexte assyse. &c. & in the meane season the dysseasour dye the seased. &c. yf the sayde sute of the assyse shall be taken in lawe for the sayd dysseasy a contynual clayme/ in so muche that no defaute was vnto him. &c.

¶ Also enquire if an abbot of a monastery dye/ and during the tyme of vacacyon a man wrongfully entreth in certayne parcels of land of the monastery

Ca. viii

claymynge/the lande vnto hym & his heyres/and of that estate dieth seased/ & the lāde discendeth vnto his heyres/ & after that an abbot is chosen & made abbot of the same monastery/a questiō is if the abbot may enter vpon ȳ heyr or not. And it semeth to some/yᵗ the abbot may wel enter in this case/for this that the couente in tyme of vacacyon was no parson/able to make cōtinual clayme/for no more than they be parsonable to sue an accion/no more be they parsonable to make cōtynual clayme/ for the couente is but as a deade body without hede/for in time of vacacyon a graunte made vnto them is voyde/ and in thys case the abbbot maye not haue a wrytte of entre vpon dysseasyn agaynste the heyre/for thys that he was neuer dysseased. And yf the abbot may not enter in thys case/ then he shall put vnto hys wrytte of ryght the whiche shall be to harde for the house by which it semeth to them that the abbot maye well enter. &c. Nam de dubijs legē bene discerne si vis quere dat sapere quę sunt legittima ver-

Scelestis

Relefles. Cap. viii.

Ca. viii

¶ Relefles of al rygh

RElefles be in diuers maners yᵗ is to say/releffe of right yᵗ a man hath in landes or tenementes/& releffe of accyons reals and personels/and of other thynges. Releffe of all the rygh that a man hathe in landes or tenementes. ꝛc. is comonly made in suche forme or to suche effecte. Nouerint vniuersi per presentes me. A. de. B. remisisse relaxasse et omnio de me et heredꝫ meis quiet clamasse. C. de. D. totum ius titulum et clameum que hñ habeo vel quouismodo in futuꝝ habere potero de it in vno mesꝫ cum pertinenꝫ in. F. ꝛc. And it is to vnderstande that these wordes remisisse et quiet clamasse) be of suche effecte as these wordes relaxasse. ꝛc. is also these wordes which be comonly put in such dedes of releffes. ꝛc. that is to vnderstande. Que quouismodo in futurꝫ habere potero / be as wordes spoke in the lawe/for no right passeth by a releafe but the right yᵗ the lessour hathe at the tyme of hys releafe made

for yᵗ

Ma. viii. for yf it be father and son/ and the father be dysseased/& the son liuing/hys father releaseth by his dede to the dysseasour all the ryght that he hathe or may haue in the same tenemētes without clause of warrantise.&c.& after the father dyeth the son may lawfully entre vpon the possessyon of the dysseasour for this that he had no ryght in the lande leuynge his father/but the ryght descended vnto hym by dyscent after the release made by the dethe of his father/Also in a release of all the ryght that a man hathe in certayne lādes/it behoueth vnto him to whom the release is made in such case that he haue a free holde in the landes in dede or i the lawe at the tyme of the release made/for in euery where he to whom the release is made hath a free holde in dede or in lawe at the tyme of the release made. &c. the release is good Franke tenement in lawe/as if a man haue dysseased another and therof dyeth seased/by the which the tenemēts descende vnto hys son/howe be it that hys sonne entre not in the tenement

A ground.

yet he hath a Franke tenement in the lawe to him vpō hym/ and therfore yᵗ releasle made is good ynoughe. And yf he take a wyfe so beynge sealed in the lawe howbe it that he neuer entre in her and dyeth his wyfe shal haue ther of her dower. Also i such casle of releasle of al ryght/ howbe it ỳ he to whome the releasle is made ne hath any thyng in the Franke tenement nether i dede nor in lawe/ yet the releasle is good ynoughe/ as yf the dysseasour haue les lande that he had by dysseasyn to a no ther for terme of his lyfe/ sauynge the reuercyon to hym/ if the dysseasye of his heyres releasle vnto the dysseasour all the ryght. &c. that releasle is good for thys that he to whome the releasle is made had in hym reuercyon at the tyme of the releasle made. In the same maner yf a leasle be made to a man for terme of lyfe the remaynder vnto ano ther for terme of lyfe the remaidre vnto the thyrde in the tayle/ the remaynder vnto the fourth in fee/ if a straunger that hathe the ryght vnto the lande releasle al his ryght vnto any of them

Ca.viii

the

Ca.viii. the remaynore / ſuthe releaſe is good for this that euery of them hathe a remaynore veſtyd in hym ſelfe / yet yf the tenaunte for terme of lyfe be diſſeaſed after / hath tyght (the poſſeſſiō beyng in the diſſealoure) releaſe vnto one of them to whō the remaindre was made al his right. ꝛc. That releaſe is voyde for that that he nor had in hym no remaynore i dede but al onely a tyght of a remaynore / at the tyme of the releaſe made. Et note / that euery releaſe made to hym that hath a reuercyon or a remaynore in dede ſhall ſerue / helpe the that haue the Franke tenemēt / as well as them to whō the releaſe is made yf the tenaunt haue yᵉ releaſe i his hande. In the ſame maner a releaſe made to a tenaunt for terme of lyfe or to a tenaunt in the tayle / ſhal enure vnto the in the reuercīō or to the in the remaynore as well as to the tenaunt of frank tenemente / and ſhall haue a greate auantage of that / if that they may helpe it / alſo yf there be ioynt tenaunt / and the tenaunte is diſſeaſed / and the diſſeaſy releaſeth vnto the diſſealoure

al the

all the ryght that he hath in the seygnory of the lande/ the release is good & the seygnory is extynct. And yf the goodes/of the disseasy be taken/and of the the dysseasy sueth a Replegiare agaynste the lorde/ he shall compell the lorde to auowe vnto hym/ and yf he wyll auowe vpon the dysseasour/than vpon the matter shewed/ the auowry shall be abated/ for the dyssease is tenaunt to them in ryght and in lawe. Ca. viii

¶ Also yf lande be gyuen to a man in the tayle reserupnge vnto the donoure and hys heyres a certayne rent/ yf the done be disseased/and after the donour releaseth to the donee al the right that he hath in the lande/ and after the donee entreth in to the lande vpon the dysseasoure/ in thys case the rente is gone/for thys that the dysseasy at the tyme of the release made was tenaunt in ryght and in lawe vnto the donour and the auowry of tyme force ought to be made vpon hym by the donoure for the rente beyonde .xx. But yet nothyng of the ryght of the lande/that is to saye of the ryght of the reuersyon

than

Ca.viii. reuercion thā ne passeth not by suche
lease/for thys that the donē to whome
the release was made than he had no-
thyng in the lande/ but onely a rygh
e so the ryght of the lande/ne may not
passe by such release to ye donē. In the
same maner it is yt a lease be made to
one for terme of lyfe/reserupnge to the
lessour and to his heyres certayn rent/
yt the lesse be dyssesed/ and after the
lessour releaseth to the lesse/and to his
heyres all the ryght that he had in the
lande/ & after the lesse entreth/howbe
it that in the case ye rent is ertynct/
yet nothynge of the ryght passeth .&c.
Causa qua supra.

But if it be vere lord and very tenāt/
and the tenaunte maketh a feoffement
in fee/the whiche feoffes neuer became
tenaunte to the lorde .&c. yt the lord
release to the feoffoure all hys rygh.
&c. that release is in all voyde/for thys
that the feoffour hathe no ryght in the
lande/ and he is no tenaūte in rygh
to the lorde but onely tenaunte as to
the auowry to be made/ and he shall
neuer compell the lorde to auowe vppō
hym

hym/ for the lorde maye auoyde vpon hym the feoffee/ yf he wyll it be/ otherwyse it is where the very tenaunte is diſſeaſed as in caſe aforeſayd/ for if the very tenaunt that is diſſeaſed holdeth of the lorde by knyghtes ſeruyce/ and dyeth/ hys heyres beynge within age the lorde ſhall haue /ꝫ ſeaſe the warde of the heyre. And ſo he ſhall nat haue the warde of the feoffour that made the feoffement in fee /and ſo it is great diuerſite betwene theſe two caſes. Ca. viii

¶ Alſo yf a man enfeoffe another in his lande vpon truſt and to the entent that he ſhall parforme hys laſt wyll/ and the feoffour occuppeth that lande at the wyll of his feoffes/ and after the feoffes releaſe by theyr dede vnto the feoffour all the ryght. ꝛc. ¶ This hath ben in que ſtyon yf ſuche releaſe be good or nat /ꝫ ſome haue ſayde that ſuche releaſe is good/ for this that no priuyte was betwene the feoffes/ and theyr feoffour/ in ſo muche that no leaſe was made after ſuche feoffement by the feoffes to theyr feoffour to holde at theyr wyll. ꝫ ſome haue ſayde the contrary/ that

Fo. viii

for two causes. One is that when such feoffement is made vppon confidence to performe the wyll of the feoffoure/ that it shalbe vnderstande by the lawe that the feoffour by and by/ ought to occupye the lande/ at the wyll of hys feoffees/ also it is/ suche maner of pcu̇ntye betwene them/ as yf a man make a feoffement to another parsou̇/ & they mountyuēt vpon the feoffement wyl say and graunt that the feoffoure shall occupy the lande at theyr wyll. &c. A nother cause they allege that yf suche lande be worth .xl. ℔. per. &c. Than suche a feoffoure shalbe sworne in assyses/ and in other enquestes in pleres reals/ & also in pleas personels of what great somes so euer that the playntyffes wyll declare. &c. And thys is by the comon law of the lāde Ergo this is for a great cause/ & the cause is that the law wyl that such feoffours & theyr heyres ought to occupy. &c. And to take therof the rente/ and all the profyts/ and all maner of yssues/ and reuenues. &c. As though be the tenemēts were theyrs owne without ēuic-

cuptyō

ropeyon of feoffees/not withstandyng
leche feoffementes. Ergo the same
lawe gyueth a pryuyte betwene fuche
feoffours/ and their feoffes vpon con-
fydence .ꝛc. For whyche cauſes they
that ſayde that the releaſe made by
ſuche feoffes vppon confydence to the
feoffoure / or to hys heyres .ꝛc. Do
occupyenge the lande.ꝛc.ſhall be good
ynough.ꝛc. And thys is the better
opynyon/as it ſemeth. Alſo releaſes
after the matter in dede ſomtyme haue
theyr effecte by force to enlarge the
eſtate of them / to whome the releaſe
is made/as if I lette certayne lāde to a
man for tme of yeres/ by force wherof
he is poſſeſſed/ I releaſe vnto him al
the ryght that I haue in the lande
without more wordes ſette or put in
the dede/ wherfore vnto hym the dede
than he hathe eſtate but for terme of
hys lyfe/ the cauſe is for this/ that
the reuercyō or the remaynder is in a
man/the whyche wyll enlarge by hys
releaſe the eſtate of the tenaunt.ꝛc. he
ſhall haue no greate eſtate but i the ma
ners forme. As yf ſuch a releſour were

Ca. xxiii

Litt is
holden
i.15. H.
7. Fo.2.
leſſes
that the
feoffee
haue an
acyon
of treſ-
pas
agayn
hym y
hath
the wr

Ca.viii. seised in fee & wyl by hys dede make estate to one in a certayne forme. &c. & deliuer vnto hym seasyn by force of the same dede if in such dede of feoffement there be no worde of enheritaūce. &c. Than he hath estate but for terme of lyfe. &c. & so it is in suche release made by hym in the reuercyon/or in the remaynder/ for yf I let lande to a man for terme of lyfe/and after I release vnto hym all my ryght without more sayenge in the release/his estate is nat enlarged. But if I release vnto hym and to hys heyres of his body engendred/than he hath fee tayle/ and yf I release vnto hym and to his heyres/than he hathe fee symple. So it behoueth i such case to specyfy in the dede what estate he is whome the release is made shall haue. &c. And somtyme release shall enure to set and put the ryght of hym that maketh the release to hym/ to whom the release is made. As a man is disseised and he releaseth vnto the disseisour al the ryght y^t he hathe. In thys case the disseisoure hath his ryght/so that where his estate before was wrong/ now it

nowe by ꝑ releaſe it is lawful & right/ C.a.viii.
but note wel/that whā a man is ſeaſed
in fee ſymple of any landes/or tene-
mentes/ & another wyl releſe vnto hi
al the right ꝑ he hath i the ſame tene
mentes/ it nedeth not to ſpeake of the
heires of hym to whom the releaſe is
made/for thꝫ that he had fee ſymple at
the tyme of the releſe made/for if the re
leſe were made to hym & to his heyres
for one day or for one houre/this ſhall
be as ſtrong vnto hym in the lawe/as
he had releaſed to hī & to hꝫ heires/for
whan his right was gone from hym
at one time by his releaſe without any
condicyon.&c.to hym that had fe ſym
ple it is gone for euer. But wher a mā
hathe a reuercyon / or a remaynder in
fe ſymple at the time of the releſe made
there if he wil releaſe to the tenaūt for
terme of yeres/or for tyme of lyfe/or to
the tenaūt in the tayle/it behoueth to
determyne the eſtate that he to whom
the releaſe is made ſhall haue by force
of the ſame releaſe. For this that ſuch
releſe goeth to enlarge the eſtate. &c.
al hym to whome the releaſe is made.

Ca.xiii. But otherwyse it is where a man hath but a ryght vnto the lande and hathe nothynge in the reuercyon nor in the remaynder in dede. For if suche a man release all his ryght to one that is tenaūt of the frāke tenemēt al his right is gone thoughe that no mēcion be made of the heyres of hym to whome the release is made. For if I let lande to a man for terme of life/yf I after release vnto hym for to enlarge hys estate/it behoueth that I release vnto hym & to hys heires of his body engēdred/or to hym and to his heyres males of hys body begotten or by suche semblable estate. &c. or otherwise he hath no greater estate than he had before. But if my tenaunt for terme of life let the same lande out to another for terme of the lyfe of his lessee the remaynder vnto another life/now yf I release vnto hym to whome my tenaūt letted for terme of life I shalbe barred for euer/thoughe that no mēcion be made of his heires/for this that at the time of the release made I had no reuercion but only a ryght to haue the reuercion. For by suche a lese with a remaynder

ouer

enter that my tenaunte made/ in thys
case my reuercion is discontinued/and
suche a release shall enure vnto him in
the remaynder to haue aduauntage
of this/ as wel as to the tenaunte for
terme of lyfe/for to that entent the te-
naūt for terme of life/ is he in the remain-
dre be as one tenaunt in the lawe/and
be as if one tenaunte were sole seased
in hys demeane as of fee at the tyme
of suche release made vnto hym. Also
if a man be dyssesed by .ii. if he release
vnto one of them/he shall holde hys
felowe out of the land/ & by such release
shall haue sole possessyon/and estate
in the lande. But if one dyssesoure en-
offe.ii. in fee/and the dyssesy release
to one of them/this shal enure to both
the sayde feoffees. And the cause of the
diuersyte betwene these.ii. cases is re
pugnaunt ygough. ¶ Also yt I be
disseased/ & the dyssesoure is dyssesed
of I release to the dyssesoure of my
dyssesoure. I shall neuer haue assyse
nor entre vpon hys dyssesoure / for
thys that hys dyssesoure hathe my
ryghte by my release. &c. And so it se-

Ca. bxiii

meth in thys case that yf there were twenty dysseasours eche after other/ and I release to the laste disseasour he shall barre al the other of their accion & theyr tytle. And the cause is as it semeth/ for thys that i many cases whā a man hath a lawfull tytle to entre thaughe he entre not. &c. he shal defete al meane tytles by hys release. &c. But this is not in euery cause/ as shall be saide aft warde. ¶ Also if a man be dysseased the whiche hathe a sōne within age & dyeth/ and beyng the sonne w'in age the disseasoure dyethe seased/ and the lande descendith to his heyre/ and a straunger abateth/ & after the sonne of the dysseasy/ whan he commeth vn to full age releaseth all hys ryght. &c. to the abatoure. In thys case the heyre of the dysseasoure shall haue no assise of Mortedauncestre against the abatoure/ but he shall be barred of the assise/ for thys that the abatoure hath the ryght of the sonne of the disseasye/ by hys release / and the entre of the sone was lawfull. &c. for thys that he was within age at the tyme of the

dyscente

discente. &c. but if a man be disseised & the disseisour maketh a feoffement vpō condicion / that is to say / to yelde vnto hym certayne rent & for default of payment a reentre. &c. yf the dysseisy release to the feoffe vpon condicyō / yet this altereth not the estate of the feoffe vpon condicyō as it was before. In ye same maner it is where a man is dysseised of certayne lande / and the dysseisoure graūteth a rent charge out of the same lāde though that after the dysseisy releaseth vnto the dysseisours. &c. yet the rent charge abydeth in hys force. And the cause is i these .ii. cases that a mā shall haue none aduauntage by such release that shalbe agaynste his owne proper acceptāce / & against his owne graūt. And though that some haue said that where the entre of a man is cōgeable vpon a tenaūt / if the release to the same tenaunt that thy auaileth vnto the tenaunt so as if he had entred vpon the tenaunte and after enfeoffed hym. &c. this is not true in euery case for in the first case of these .ii. cases if the dysseisy in ke entre vpon the feoffe vpon condi- Ca. viii

Ca. viii

cion and after entreoffeth him/than the
condicyō is al put aside & voide. And yf
seconde case if the dysseasy entre & ent
offe hym that graūted the rent charge
than is the rent charge auoyded. But
it is not auoyded by any suche releasi
with an entre made. &c. Also if a man
be dissea sed by a chylde within age the
whiche alieneth in fee/& the alienee by
eth seased/& dyes his heyre entreth beinge
the dysseasour within age. Nowe it is
in the electiō of the dissea sour to haue
a wryt of Dum fuit infra ætatem. Or a
wryt of ryght against the heyre of the
alienee/& which wrīt so euer he taketh
of thē he ought to recouer by the lawe
And also he may entre in to the lande
wᵗout any recoutre/& i this case the en
tre of the dysseisy is taken away/but in
this case yf the dysseisy release his ryght
to the heyre of the alienee/& after the
dysseasoure bryngeth a wryt of ryght
agaynst the heyre of the alienee/& he
loyneth the myse vpō the elere ryght.
&c. the graūde assise ought by the lawe
to fynde that the tenaunte hath more
elere right. &c. than hath the dissea sour

fo

for thy that the tenaũt hath the ryght of ꝑ dilleꝯ & hys relcse which is more auncyente & more clere ryght thã the ryght of the dyssealour/ for by such release al the ryght of the dysseꝯ palleth vnto the tenaũt/ & is i the tenaũt. And to hys some haue sayde ꝓ in such case where a mã hath right to landes or tẽmẽtes but by entre is not lawfull. if he release vnto the tenaunt. &c. than suche release shall enure by way of extynguyshmẽt. As vnto this it may be sayd that thy is truth vnto hi that releseth/ for by his release he hath dysmis sed hi self clene of hys ryght as to hys ꝑson. But yet the right ꝓ he had may well passe & go vnto ꝯ tenaũt by by re lease/ for it shulde be inꝯuenyent that such an aũcyent right shulde be extincte al vtterly. &c. for it is comõly said that right may not dye. But a release ꝓ goth by the way of extynguyshmẽt ageynst al ꝑsones/ is wher he to whõ the relea se is made may not haue thys that vn to hi is released/ as if ther be lorde & te naũt/ & the lorde releaseth vnto the te naũt al the ryght ꝓ he hath i the [illegible] rp

fo. xliii.

*A release in vrynge by waye of extynguyshement.

Ca.viii

ship or al pᵗ right pᵗ he hath i the lãde
&c. such a release goth by way of extin
guishmẽt against al psones, for thy that
the tenaunt may not haue the same of
hym selfe. In the same maner is a re-
lese made to the tenaunte of the lãde of
a rent charge or of a comõ pasture for
thys that the tenaunte may not haue
that that vnto hym is released &c. So
suche releases go away by extinguish-
ment against all persones.

¶ Also to proue pᵗ the graunde assyse
ought to passe for the demaundaũte in
the case aforsayde. I haue herde often
in the lecture vpõ the statute at westm
the seconde that begynneth. In casu
quando vir amisert per defaltam ten
mẽtum qõ fuit ius vroris suc. &c. pᵗ is
at the comõ lawe before the statute, yf
a lease were made to tenaunt for terme
of life the remaynder oute in fee and
straunger by a fained accyon recouer
against the tenaũt for terme of lyfe by
defaute, & after the tenaũt dyeth, he in
the remaynder had no remedy before
pᵗ statute for thy, that he had no posses
syon of the lãde, but if the i the reman

ner

perhad entred vpō the tenaūt for tme Ca.viii.
of lyfe and dyffeased hym / & after the
tenaunt entreth vpon hym / and after
the tenaunt for terme of lyfe leseth by
fuche recouere had by defaute / and dy-
eth / nowe he in the remaynder maye
wel haue a wrpt of right agaynst him
that recouered / for this that the myse
haue ioyned only vpō the clere ryght
And yet in thys case the seasyn of him
in the remaynder / was defeted by the
entre of the tenaunt for terme of lyfe.
But paraduenture some wel argu & say
that he shall haue no wrpt of ryght in
this case / for this that whā the mise is
ioined i such maner / that is to say / that
tenaunt haue more clere ryght to the
lande in the maner as it is holden / thā
the demaundāt hathe in the maner as
he demaundeth. And for thys that the
seasyn of the demaundaunte was de-
feated by the entre of the tenaunte for
terme of lyfe / than he hath no ryght
in the maner as he demaūdeth. Unto
this it may be sayde that these wordes
(Modo & forma put. &c.) in many cases
be wordes of maner of pledynge & no

* The effect of these wordes modo et forma.

wordes

L.3.dili. wozdes of suche auice/for if a man bring a wrpt of entre (In casu proviso) of alienacyō made by the tenaūt in dower to his husbande ryght aunce/and pleded of the alienacyō made in fee/& the tenaūt saith that he alyened not in the manner as the demaundaunt hath declared/ vpon this they be at pssue/& it is found by verdyt that the tenaunt alyened in fayre/or for terme of anothers lyfe/ the demaundaunt shall recouer/ and yet the alienacyon was nat in the maner as the demaūdaunt hath declared.

¶ Also yf there be lorde and tenaunte/ and the tenaunt holdeth of the lorde by fealte onely/and the lorde distrayneth the tenaunt for rente/and the tenaunt bringeth a wrpt of trespas agaynst the lorde for his catayll so taken/and the lorde pleadeth that the tenaunt holdeth of hym by fealte and certayne rente and for therente behynde he came to distrayne.&c. And demaundeth iudgement of the wrpt brought against hym Quare vi et armis.&c. And the other sayth that he holdeth nat of hym in the maner as he supposeth/and vpon this they

they be nat at yſſue/and it is founde by verdyte that he holdeth of hi by fealte tantū: i thys caſe pᵗ wryt ſhal abate/& yet he holde nat of the lorde in the maner as the lorde had ſaid/ for the matter of the yſſue is whether the tenaūte holdeth of hi or nat. For if he hold of hym though the lord dyſtrayne for other ſeruices pᵗ he ought nat to haue/yet ſuch wryt of treſpas Quare vi & armis. &c. lieth nat againſt pᵗ lorde but ſhal abate. Also in a wryt of treſpas of berynge or of goodes take/ſo/yf the defendaunt ſaye nothynge culpable in the maner as the playntife ſuppoſeth/& it is foūde that the defendaūt is culpable in another towne or at another day than the playntife ſuppoſeth/yet he ſhal recouer and i many mo other caſes theſe worde(pᵗ is to ſay in the maner as the defendaūt or the playntyte hath ſuppoſed be no matter of ſubſtaunce of that yſſue/for in a wryt of ryght where the myſe is ioyned vpon the iuere ryght is as much to ſay and to ſuche effecte that is to wyte / whyther hathe the ryght the tenaūt or the demaun

Ca. xiiij.

Ca. viii. daunte to the thynge so demaunded. ¶ Also yf a man be dysseased and the dysseasour dyeth seased. &c. and his son entreth in by discent and the dysseasy entreth vpon the heyre of the dysseasour the whiche entre is a dissesy. &c. if the heyre bringe assise or a writ of ryght agaynste the dysseasy he shall be barred. For thys that whē the graūde assise is swome/their ore is vpon the elect ryght & nat vpon the possessyon. &c. for yf the heyre of the dysseasour had brought assyse of Nouel dysseasin or a writ of entre in nature of assyse & recouered agaynste the dysseasy & sued execucyon yet maye the dysseasy haue a writ of entre in the per agaynste vpon of the dissesin made vnto him by dyscent/or he may haue against the heire a writ of right. But if the heyre ought to recouer agaynst the dysseasy in the case aforesayde by writ of ryght/then all his ryght shall be clerely gone. for thys that a tynall iudgement shuld be gyuen agaynst vpon whiche shulde be agaynst reason where the dysseasy hath more clere right. &c. And knowe ye also

Tynall iudgement in a writ of ryght

sone that in a wrpt of rpght after thys Ca.viii
that the.iiii.knpghtes be chosen in pe
graunde assise/than ther is no greater
delay than a wrpt of formedon after
this that the partpes be at an pssue.&
and pf the mpse be ioyned vpon bataylle/than there is lesse delay.

¶Also a releasse of all the rpght .&c.in
thys case is good made vnto hym that
is supposed tenaũt in the law thoughe he hathe nothynge in the tenementes
as in a precipe Quod reddat if the tenaunte alyen the lande hangynge the
wrpt/and after the demaundaunte releaseth to hym all hys rpght/ that releasse is good/for this that he is supposed to be tenaunt by the sute of the demãdaũt/& yet he hath nothyng i the
lande at the tyme of the releasse made.
In the same maner it is pf in a precype Quod reddat/ the tenaunt vouche/
and the vouche enter in the garranty/
pf after the demaundaunte releasse to
the vouch al his right.&c.this is good
ynough/for thys that the vouche after this pe he hath entred in pe garranty is tenaũt in law to the demãdaũt

¶ Also as to releases of accyons reals and accyons personals it is so that some accyons be myxte in the realte and in the personalte/as yf an accyon of wast be sued agaynste the tenaunt for terme of lyfe/thys accyon is in the realte/ for this that the place wasted shalbe recouered/and also it is in the personalte/ for thys that treble damage shalbe recouered for the wrong/and wast done by the tenaunt/and for this inthis accyon a release of actions reals is a good plee in barre/and so is a release of accyons personels. In the same maner is in Assyse of nouel dysseasyn/for this that it is myxte in the realte and in the personalte. But yf such assyse be arrayned agaynst the dysseasour/the tenaunt of the dysseasoure maye plede a release of accyons personals for to barre the assyse/but not a release of actions reals for none shal plede a release of actions reals in assyse/but the tenauntes &c.

¶ Also in such accyons that behoueth to be sued agaynste the tenaunt of the franke tenement if the tenaunt haue a release of accyons reals of the demaun

dauns

vaunt made vnto hym before the wyfe purchased/ and he pleedeth it/ thys is a good plee for the demaundaunt to saye that he that pleedeth/ that plee had no tyyng in the franke tenement in tyme of the releafe made/ for that he had no cause to haue accyō reale against hym.

¶ Also in suche case where a mā may enter in landes or tenementes/ he may haue of this an accyon reall whiche is gyuen vnto hym by the lawe agaynste the tenaunt. As in this case the demaūdaunte releafe to the tenaunt all maner accyons reals / yet thys taketh not away the entre of the demaundaunte/ but the demaundaunt may wel enter. but with standynge suche releafe for thys that nothyng is released but the accyon .&c. In the same maner it is of tyynges yconals. As if a man wrongfully take my goodes/ yet I releafe vnto hym all accyons personels yet I may by the lawe take my goodes out of hys possessyon.

¶ Also if I haue cause to haue a writ of entre vpon of my goodes agaynst another though he that I releafe vnto hym

Fa. viii

all accyons ꝑ arsoncis / yet I maye take my goodes out of hys possessyon/ for this that no ryght of goodes is released to hym but only the accyon. &c. Also ita may be dysseased/ and the dysseasour maketh a feoffement vnto dyuers persones to hys vse / & the dysseasour contynually taketh the profytes. &c. & the dysseasy releseth vnto hym all accions reals/ & after he sueth ageynst hym a writ of entre in nature of assyse bycause of the statute for thys that he taketh the profytes. Enquyre how the dysseasoure shalbe holpen by the sayde release/ for yf he wyll plede the release generally / than the demaundaunt may say that he had nothyng in the franke tenement at the tyme of the release made/ & yf he plede the release specially thā it behoueth him to knowe a dissesyn/ & than may the demaundaunt enter in the lande. &c. by his couynsaunce of the dissesyn. &c. But paraduenture by especyal pledynge he may be barred of the accyon that he sueth . &c. thoughe that the demaundaunt may enter. &c.

¶ Also if a man sue appele of felony of

the

the dethe of hys auncestre agaynste a nother thoughe the appellaunt release vnto the defendaunt al maner accions reals & personels/thys shall not helpe the defendaunt/ for this that thys appele is not an accyon reale in so muche that the appellaunte shall not recouer any realte/nor such appele is no accyon personall. In so muche that the wronge was vnto hys auncestre and not vnto him but yf he release to the defendaunt al maner of accyons/than it shalbe a good barre in the appele/and so a man maye se that a release of a maner of accyons is better than releste of all maner of accyons & psoncls. &c. ¶Also in appele of robbery yf the defendaunt wyl plede a release of the appellaunte of all accyons personelles/thys semeth no plee/for an accyon of appele wher the appellaunt shall haue iugement of dethe. &c. it is most playn that an accyon personell/& it is not properly sayde an accyon personall/& therfore if the defendaunt wyl haue a releste of the appellaũt to barre him of the appele it behoueth hym to haue a releste

Fol. 88 of al maner of accyons of appele/or re-
lease or of ani maner of accyons as is
meth. ec. But in appele of mayme a re-
lese of al maner of accyons personals is a
good plee barre/for this that i such an
accyon he shall recouer but damages.
¶ Also yf a man be outlawed in an ac-
cyon personall by processe of the cyp-
gynall and bryngeth a wryt of errour &
he at whose sute he was outlawed wyl
plede agaynst him a release of accyons
personals this semeth no plee/for by
the sayde accyon he shall recouer no
thynge in the personalte/but all onely
to reuerse the outlawry/but a release of
a wryt of errour shalbe a good plee. ec.
¶ Also yf a mā recouer det or damages
and he release to the defendaunte all
maner of accions/yet he may lawfully
sue execucyon by Capias ad satisfacē-
dū or by elegit/or by fieri facias/for
execucyon by suche wryte may not be
sayd an accyon/but yf after a perles
daye the playntyfe wyll sue a scire fa-
cias to haue execucyon. ec. than this
meth a release of all accyons shall be
a good plee in barre/. but some haue
sought the contrary in so muche that

the writ of scire facias is a writte of execucyon and is to haue execucyon. But in so much p' vpon the same writ the defendaunt may plede dyuers matters after the iudgement gyuen to put hym fro execucyon as outlawry & dyuers other. &c. therfore it may well be sayd accyon. &c. and I trowe that in a scire facias oute of a fyne a releafe of al maner of accyons is a good plee in barre/but whē a man hath recouered his dāmage and it is accorded by twene them that the playntyfe shalbe put out from accyon/than it behoueth that the playntyfe make a releafe to hym of all maner of accyons.

Lx. viij

¶ Also if a man releafe to another all maner demaūdes/this is the most best releafe that he to whome the releafe is made can haue & most shal enure to his auauntage/ for by suche releafe of all maner of demaūdes/ al maner of accyons reals & personals/and accyons of appelles be gone & extincte/& all maner of execucyons be gone & extincte. And if a man had tytle to entre in any landes or tenementes/by suche releafe

* A releafe of all demaūdes

Ca. viii

this tytle is gone and yf a man haue rente seruyce or rente charge/or comō of pasture/&c. by suche release of all maner demaundes to the tenaunt of the lande wherof the seruyce or the rent is goyng out/or in what land soeuer the comon be/ the seruyce and rent/ and the comon is gone and extynct. &c.

¶ Also if a man release to another all maner quarels/or all contrauersyes or debates betwene them. Enquyre to what mater and to what effecte such wordes extende.

¶ Also yf a man be bounde by his dede to another in certayne some of money to pay at the feest of saynt Mychell than next folowynge. &c. yf the obligee before the sayde feest release to the obligour all accyons/he shal be barred of the dute for euer/yet he myght haue no accyon at the tyme of the release made. But yf a man let lande to another for terme of yeres to yelde at the feest of saynt Mychel next ensuyng xl. &. and before the same feest he releaseth to the lessee all accyons/ yet after the same feest he shall haue an ac-

cyon

yon of dede by the nonpayment of the
xl.s. Notwithstandynge the sayde re-
leale. Study the cause of the dyuersitie
betwene these two causes.

¶ Also where a man wyll sue a wryt
of ryghte it behoueth that he plede of
the dyssesyn of hym or of hys aun-
cestres and also that the sesyn was
in tyme of the same kynge as he ple
deth in his ple/for this is an auncyent
lawe vsed as it appereth by reporte of
a certayne plee in suche forme as en-
suethe. Syr Johñ barry brought a
wrytte of ryghte agaynste Raynolde.
Allyngton and demaunded certayne
tenementes. &c. the myse was topned
in the banke/and the dyygynall of the
processe were sent before Justyces &
contes wher the partyes came and the
xii. knyghtes were sworne without
chalenge of the partyes to be alowed
for thys that the electyon was made
by assent of the partyes with the xii
knyghtes/and the othe was suche
I shall say trouthe. &c. whether. R. or
A. haue more ryght to holde the tene
mentes that Johñ Barrey demaun-
deth against him by his wryt of ryght

La. viii.

Studye out the cause.

Ka. viii

of John to haue the tenementes as he demaundeth and for nothyng to ict to saye the trouthe, as god me helpe. &c. Without sayenge to theyr attempynge of suche othe shall be made in affaires and in hatayte of ye wagynge of lawe/ for those be euery thynge vnto an ende. But John barry pleded of the dysseasyn of one Kauke his auncestrel tyme of kynge Henry/ and Raynolde vpon the myse ioyned tenderyd halfe a marke for the tyme. &. and vpon this issue there iustyces at the graunde assyse after this that they were charged vpon the ryght. Sayd man Raynolde gaue halfe a marke to the kyng to the entent that he synde that the auncestre was not seased in tyme that the demaundaunt hath pleded no forther vpon the ryght so for thys ye shall saye to vs whether y auncestre of Jhon Kauke by name was seased in ye tyme of kynge. H. as he hath pleded or not/ if ye fynde that he was not seased in the tyme he shal enquire no more/ & if ye fynde yt he was seased thā enquyre farther of the ryght & after the graunde assyse came

☞ In quyre to what purpose an halfe marke shall be offered i a writte of right

with veri verdite / seing that Maude was not seased in the tyme of Kynge. H. whereby it was awarded that Raynolde shoulde holde the tenementes ageynste hym demaunded to hym and to hys heyres quyte of John. Watty and his heyres to the remenaunt / and John in the mercy.

¶ Confyrmacyon. Ca. lx. Ca. lx.

Dede of confyrmacion is moste comonly made to suche to me or to suche effecte. Noverint universi me. A. de B. ratificasse approbasse et confirmasse. L. de. B. statum et possessum quos habeo de et in messagio. &c. cum pertinentiis in. R. and in some case a dede of confyrmacyon is good & vallable / & where in the same case a dede of relese is not good nor vayllable. As if I let lande to a man for terme of hys life / he wolde lettere the same lande to a nother for. xl. yeres / by force of the whyche he is possessed / yf I by my dede confyrme the state unto the tenaunte for terme of yeres / and the tenaunte for terme of

lyfe

Ca.ix. hyeth durynge the terme of hys yeres
maye not entre in the lande durynge
the same terme yet yf I by my dede of
releasse haue released to p^e tenaunt for
terme of yeres in the lyfe of the tenaũt
for terme of lyfe the releasse shalbe voyde
for thys that thau no prynyple was
betwene me & the tenaunte for terme
of yeres for a releasse is not auayleable
to the tenaunte for terme of yeres but
where a prynyple is betwene hym and
him p^t releaseth. In the same maner
is it I be disseased & the dysseasour ma
keth a releasse to another for terme of
yeres. Also if I be disseised & I cõtynue
the state of the dysseisour thã he hath a
good and ryghtfull estate in fe symple
thoughe that in the dede of confyrma
cyon no mencyon is made of his hey
res (for this that he had fee symple at
the tyme of the confyrmacyon / for in
suche case yf the dysseasy confyrme the
state of the dysseasoure to haue and to
holde to hym for terme of his lyfe / yet
disseasour hath fe symple as sealed by hys
demeane as of fe for thys p^t whan hys
estate was cõfyrmed he had fe symple

and

and in suche dede he maye nat chaung Cap.lxx.
hys estate without entre vpon hym.&
In the same maner is yf the estate be
confyrmed for terme of a daye or for
terme of another he hath a good estate
in fe symple. Or cõfyrmare firmũ la-
xare. Also yf.ii. be dysseasours and the
dysseasy releaseth to the one / he shall
holde hys felowe out of the lãde/but if
the dysseasy cõfyrme the estate of the
one without more speche in the dede/
some say that he shal not holde his fe-
lowe out/but he shal hold ioyntly with
him for thys ꝙ nothyng was cõfirmed
but hys estate yᵗ was ioynt/& for thys
some haue said ꝙ if.ii.ioyntenaũtes be
& the one confyrmeth the estate of the
other/ yᵗ he hath but a ioynt estate as
he had before / but yf he haue suche
wordes in the dede of cõfyrmacyon to
haue & to holde to hym & to his heyres
all the tenementes wherof mencion is
made in the confirmacyõ/than he hath
estate sole in yᵉ tenemẽtes/& therfore it
is a good & a sure thyng in euery cõfyr
macyon to haue these wordes to haue
& to hold yᵉ tenemẽtes.&c.in fe or in fe

Tayle

Ca. 15. Mayle or for terme of lyfe or for terme of yeres after as the cause or the matter is for to the entent of some p[er]sone the lande to another for terme of lyfe / and after he confyrmeth his estate by these wordes to haue and to holde his estate to hym and to hys heyres / thys confyrmacyon as concernynge his heyres is voyde / for his heyres can not haue his estate which was but for terme of lyfe but yf he confyrme hys estate by these wordes to haue the same lande to hym and to hys heyres thys confyrmacyon maketh a fee symple in this cause to hym the lande / for thys that they haue to holde, &c. goth to the lande & not to the estate that he hath &c. Also yf I lette certayne lande to a woman sole for terme of her lyfe the whyche taketh husbande / and after I confyrme the estate to the husbande and to the wyfe for terme of theyr .ii. lyues in this case the husbãde holdeth not iopntly with the wyfe / but holdeth the ryght of his wyfe for terme of hys lyfe but thys cãfyrmacyõ shall enure to the husbande by way of remaynder for terme of hys

lyfe yͤ the survyvyr his wyfe/but if Cap. ix.
he be a woma sole for terme of yeres
whiche taketh a husbande / and after
I confyrme the state to the husbande
and the wyfe for terme of bothe theyr
lyves/i this case they have coynt estate
in the fraūke tenemente of the lande for
thys that the wyfe had no frankstene-
ment before . Also yͤ a parsone of a
chyrch charge the gebe of hys chyrch
by his dede / and the patron / and the
ordynary confyrme the same graunte
and all that is comprysed within the
same graunt / than the same graunte
shalbe in hys strength after the pur-
pose of the same graunt / but in suche
wise it behoueth that the patron have
fe symple in the auoulon for if he have
estate in the auoulon for terme of lyfe
in tayle/than the graunt shalbe but
voyde hys lyfe and the lyfe of the
parsō that graūted it. &c. Also if a man
lande for terme of lyfe/which tenau-
nt for terme of lyfe chargeth the lāde
in fe tayle in fe/and he in the reuercyon
confyrmeth the same graūt / thys char
ge is good ynoughe & effectuall . Also

yͤ

Ca.viii. ordynary hath nothynge to medle nor to do/the patron of the chaunterye/ and the chapelayne of the same chauntery may charge the chauntery with a rent charge in ypetuyte. Also in some case these verbes dedi et concessi haue the same effecte in substaunce and shall enure to the entent as this verbe confirmaui / as yf I be dysseased of a plough lande and after I make suche a dede.&c. Sciant presentes.&c. Quod dedi/to the dysseasour the sayd plough lande.&c. And I delyuer all onely the dede to hym without ayuste of seysyn of the lande/that is a good confyrmacyon / and as stronge in the lawe as yf he had in the dede this verbe confirmaui.&c. Also yf I let lande to a man for terme of yeres/by force of whiche he is possessed / and after I make to hym dede.&c. Quod dedi vel concessi.&c. the same land to haue for terme of his lyfe and delyuer him his dede/than by all by he hath estate in the lande for terme of his lyfe / and yf I say in the dede to haue to hym and to his heyres of his body engendred he hathe estate in the

Mayle/and if I say in the dede to dane and to holde to him and to his heyres/ he hathe estate in Fee symple/for this shall enure to hym by force of conkyrmacyon to enlarge his estate. Also yf a mā be dysseased/and the dysseasour dyeth seased/ & hys heyre is in by dyscent / after the dysseasy e the heyre of the dysseasour make ioynctly a dede to another in fee to ipueve of seasyn vpon hys is made/as to the heyre of the dysseasour y^t ensealeth the dede the tenemētes passe by the same dede by way of feoffemēt/& as to the dysseasy y^t ensealeth the same dede/thys shal not enure but by way of conkyrmacion/but if the dysseasy in thys case bryngc a wryt of entre in the(per & cui)agaynst the alyenc of the heyre of the dysseasour/ enquyre how he shal plede ye dede against the demaundant by way of conkyrmacyon.&c. And thus we ye thys my chylde that it is one of the most honnotable/ laudable / and profytable thynge in our lawe to haue the scyence of well pledynge/in accions reals & parsonals and for thys I counsayle.

Cap. lx.

☞ The vtylyte of pledyng

Cap. xx. the in speciall / (as of thy courage & cuyo
te to lerne that. Also yf thyer be lorde and
tenaunt / and the lorde confyrmeth the
estate that the tenaunt hath in the te
nemētes / yet the seygnoury holly abyd
deth to the lorde as it was before. In
the same maner it is / yf a man haue a
rent charge out of a certayne lande / &
he confyrme the state that the tenaunt
hath in the lande / yet abydeth to the
confyrme the rent charge. In the same
maner it is yf a man haue comon of
pasture in the lande of any other / yf he
confyrme the state of the tenaunte of
the lande (notwyng shall departe fro
hym of hys comon, but thys not with
standyng the comon abydeth to hym
as it was before.

¶ But yf there be lorde and tenaunte
which holdeth of hys lorde by scruyce
of fealte and .xx.s. of rent / yf the lorde
by his dede confyrme the state of the te
naūt to holde by .xu.ō.i.ō. or by an.ob.
in thys case the tenaūt is discharged
of all other scruyce and shall yelde no
thyng to the lorde but that that is
cōprised within the same cōfyrmacyō

yet if the lorde wyll by the deed of confyrmacyon that the tenaunt in thys Lay.in
cale ought to yelde to hym an hawke
or a role yerely as large a terre. &c. thys
confyrmacyon is voyde/for thys y^t he ex-
tendyth to hym a newe thyng that ne-
uer was parcell of the ſeruyces before
the confyrmacion/and ſo the lorde may
aduoyde the ſeruyces by ſuch confyr-
macyon but he maye not reteyne to hy
a newe ſeruyce. &c.

¶ Alſo if there be lorde meane and te-
naunt/and the tenaunt is an auowe
that holdeth of the meane by certayne
ſeruyces yerely the whyche hathe ne-
cedle to haue a quitaunce agaynſt his
meane for to bryuge a wryt of mrance
&c. In thys cale yf the meane con-
firme the ſtate that the auowe hathe in
the lande / to haue and to holde the
lande vnto hym and hys ſucceſſoures
in frankealmoygne/ or free almeſſe.
&c. In this cale this confyrmacyon is
good / and than the auowe holdeth of
the meane in frãke almoygne/and the
cauſe for thys that no newe ſeruice is
reteyned/for all the ſeruyces ſpecyally

Cap. xx. ſpecyfyed/by cryncte/and nothyng is
reſerued to the meane/ but the abbote
ſhal holde of the lande/ and that was
before the confyrmacyon / for he that
holdeth in Frankealmoygne ought to
do no bodely ſeruyce /ſo that by ſuche
confyrmacyon it appereth that the
meane ſhall reſerue vnto hym no newe
ſeruyce / but that the lands ſhalbe
holden of hym as it was before/and in
this caſe the abbot ſhal haue a wryt of
meane yf he be dyſtrayned in hys de-
faute by force of the ſayd confyrmacy-
on/where perchaſe he myght not haue
ſuche a wryte before.xx.

¶ Alſo yf I be ſeaſed of a vyllayne as
of a vyllayne in groſſe / and another
taketh hym out of my poſſeſſyon clay-
mynge hym to be his vyllayne/ſ after
I confyrme vnto hym the ſtate that he
hath in my vyllayne/thys confyrmacy
on ſemeth voyde / for this that none
may haue poſſeſſyon of a man as of a
vyllayne in groſſe/and in ſo much that
he to whome the confyrmacyon was
made was not ſeaſed of hym as of his

vyllayne

byllayne at the tyme of the confyrmacyon/ such confyrmacyon is voyde/but in this case if such wordes were in the dede. Sciatis me dedisse & confirmasse tali. sc. talem villenum meum/thys is good/but thys shall enure by force and way of graunt/and not by way of confyrmacyon. sc. Also sometyme these verbes(dedi et concessi)enure by waye of extynguysshmente of the thynge gyuen or graunted. As a tenaunte holdeth of hys lorde by certayne rent/ and the lorde by hys dede graunteth to the tenaunt and to hys heyres the rente. sc. this shall enure to the tenaunt by way of extinguishment/for by this graunt the rent is extynct. In thys same maner it is wher one hath a rent charge of certaine lande and he graunteth to the tenaunt of the lande the rent charge/ & the cause is for this that it appereth by the wordes of the graunte that the wyll of the donoure is that the tenaunt shal haue the rent. sc. in so muche that he may haue no rente out of hys owne lande/for thys the dede shall be vnder-stande and take for the more auaun-

Cap.xi.

Extyn guysshmente.

Capi.x. tage and auayle of the tenaunt that it maye be/and that is by waye of confyrmemente. Also yf I let lande to a man for terme of yeres and after I confyrme hys estate without mo wordes put in the dede/he hath no greter estate but for terme of yeres as he had before but yf I release to hym my ryght that I haue in the lande without mo wordes put in the dede/he hath estate of franketenement/and so mayst thou childe vnderstande grete dyuersites betwene releases and confyrmacions. And if I be within age and let lande to one for terme of.xx. yeres and he graunteth the lande for terme of x. yeres so that graunt is but parcell of his terme. In thys case whan I am of full age yf I release vnto the graunter of my lesse ter. This release is voyde for thys that there is no priuyte betwene hym and me. But yf I confirme his estate than this confyrmacyon is good/but yf my lesse graunt all hys estate to another/than my release made to the graunter is good and effectuall. Also yf a man graunt a rent charge out of hys lande

to another for terme of hys lyfe and Capi.
after I confyrme his estate in the sayd
ecute to haue and to holde to him in fee
taple or in fee symple/ thys confyrma
cyon is voyde as to enlargynge of his
estate/ for thys that he that confyrmed
had no reuercyon in the rente/ but yf a
man seased in fee of rente secrpce or of
rente charge / and he graunteth the
rente to another for terme of lyfe and
tenaunte attourneth / and after he
confyrmeth the estate of the graunte
in fee taple or in fee symple/ thys con-
fyrmacyon is good as to enlarge hys
estate after the wordes of the dede of
confyrmacyon / for thys that he that
confyrmed the estate at the tyme of
the confyrmacyon had the reuercyon
of the rent. ☞ but in thys case afore-
sayde where a man graunteth a rente
charge to another for terme of lyfe
yf he wyll that the graunte shall
haue estate in the taple / or in fee /
hym behoueth that the dede of the
graunte of the rente charge for ter-
me of lyfe be resurrendred or coun-
celled/ and than to make a newe dede

of suche a rent charge to haue and to take to the graunte in the fayle or in fe. (Et paucis dictis plurima intendere potes.)

Attournement. Cap. x.

Capi. x.

Attournement is if the be lorde and tenaunte and the lord wyl graūt by hys dede the seruyce of hys tenaunte to another for terme of yeres or for terme of lyfe or in tayle or in fee hym behoueth that the tenaunte attourne to the graunte in the life of the grauntoure by force and vertue of the graunte/or other wyse the graunte is voyde / and attournemente is none other thynge in effecte but whan the tenaunte hathe herde of the graunte made by hys lorde / that the same tenaunte by worde agree to the sayde graunte/ as to saye to the graunter/ I agree me to the graunte made to you/or I am wel content of the graūt made to you. &c. but the more comyn

attournemēt is to say/ for I attourne to you by force of the same graūt or I become your tenaunt.&c. or to deliuer vnto the graunte.i.d.ob. or ferthynge by way of attournement.&c. Capi.x.

¶ Also if a man be seased of a maner whyche maner is parcell in demesne and parcell in seruyce yf he wyll alyen suche maner to another / it behoueth that by force of the alyenacyon all the tenauntes that holde of the alyenoure as of hys maner.&c. attourne to the alyene or of her wyse the seruyces abide contynually in the alyenoure/ except tenauntes at wyl/ for it nedeth not the tenaūtes at wyll attourne vpon suche alynacyon.&c. for thys that the same landes or tenementes that they holde at wyll do passe to the alyenee by force of suche alyenacyon.

¶ Also yf there be lorde and tenaunte and the tenaunt letteth the tenemētes to a man for terme of lyfe the remayndre to another in fe/ if the lorde graunt the seruyces to the tenaunte for terme of lyfe/ in fee in this case the tenaūt for terme of life hath fe in the seruices but Tenere in sufpence.

seruyces

Capi. k. ſeruyces be put i ſuſpence during the lyfe but hys heyres ſhall haue the ſeruyces after hys dethe/and in that caſe it needeth not and attournemente/ for by the acceptaunce of the dede of hym that ought to attourne/thys is attournement i hym ſelfe. &c. but where the tenaunte hath as great a hyghe eſtate in the tenementes as the lorde hath in the ſeygnoury/in ſuch caſe yf the lorde graunt the ſeruice vnto the tenaunt in fe this enureth by way of extynguyſhment(Cauſa patet)

Segnio ry reup ted.

¶ Alſo yf there be lorde and tenaunte and the tenaunte maketh a leaſe to one for terme of lyfe rayinge the reuercyon vnto hym/yf the lorde graūte the ſeygnory to the tenaunt for terme of lyfe in fee in thys caſe it behoueth that he in the reuercyon attourne to the tenaunt for terme of lyfe by force of that graūt/ or otherwyſe the graūt is voyde for thys that he in the reuercyon is tenaunt vnto the lorde.

¶ Alſo yf there be lorde and tenaunte and the tenaunte holdeth of the lorde by .xx. maner of ſeruyces/and the lorde

graunteth

graunteth thys seygnoury to ancither yf the tenaunte paye or do any of the seruyces to the graunter this is a good attournemente of and for the seruyces though that the tenaunties entente was to attourne but of the same parcell for thys that the seygnoury is an holy thynge though that therebe ye ters manet of seruyces that the tenaunt ought to do. Capi.

¶ Also yf there be lorde and tenaunte and the tenaunte holdeth of the lorde by many manet of seruyces and the lorde grauntetb the seruyces to another by fyne / yf the grauntee sue a scire facias oute of the same fyne for any parcell of the seruyces / and hath iugement to recouer / this iugement is a good attournemente in the lawe for all the seruyces. Attournemēt.

¶ Also yf the lorde of the rente graunteth the seruyces vnto another / and the tenaunt attourneth by a penp and after the graunte dystrayneth for rent behynde / and the tenaunt to hym maketh reseous. In thys case the graūte shall not haue allyse of the rent, but he

shall

Capi. x. shall haue a writte of resceus for thad
yᵉ gifte of the peny was but by way of
tournement. But yf the tenaunt hadd
gyuen vnto the graunte the sayd peny
as parcell of the rent or an halfe peny
or a farthyng by way of sealyn of the
rent/ thanthys is a good attournemēt
and also it is a good sealyn to the
graunt of the rent. And than vpō such
resceus the graunt shal haue assyse. ¶ Also yf a mā let tenementes for terme
of yeres by force of whiche the ielle is
seased/ and after the lorde graunteth
by his dede of the reuercyon for terme
of lyfe or in tayle/ or in fe/ it behoueth
in this case yᵗ the tenaunt for terme of
yeres attourne/ or otherwyse nothyng
passeth suche graunte by suche dede
& if in this case the tenaūt for terme of
yeres attourne to the graunte / than
by and by passeth the fraūke tenement
on the graunt by suche attournement
withoute any lyuere of sealyn. &c. In
this if any liuere shalbe made or neede
to be made in suche case / than the te-
naūt for terme of yeres shalbe at lyue
of the lyuere of sealyn oute of his pos-
sessyon

Cap. x.

fyon why che shuld be agaynst reaſō
¶ Also yf lande be let to a man for
terme of yeres the remaynder to ano-
ther for terme of lyfe reſeruyng to the
lessoure a certayne rent by yere / and
lyuere of seſyn is made vpō this to the
tenaunt for terme of yeres / if he in the
reuercyon in suche case graunte hys
reuercion to another. &c. & the tenaunt
y^t is in the remaynder after the terme
of yeres attourneth / this is a good at-
tournement / and he to whome the re-
uercyon is graunted by force of suche
attournement shall dystrayne the te-
naunt for terme of yeres for the rente
due after suche attournement though
the tenaunt for terme of yere neuer at-
tourned vnto him / and the cause is for
the where the reuercyō is dependaūte
vpon the statute of franke tenemēt / it
followeth that the tenaunt of the frank
tenement / attourne vpon such graunt
of reuercyō. &c. & it is to wyte / where
a lease for terme of yeres or for terme
of lyfe or a gyfte in the tayle is made
to any mā reseruyng to suche a lessoure

Ca.2. or donour certayne rente / yf suche a lessoure or donour graunt hys reuersyon to another / and the tenaunte of the lande attourne / the rent passeth to the graunttee thoughe in the dede of the graunte of reuersyon / no mencyon is made of the rente / for hys that the rente is incydent to the reuersyon in suche case / and not extynct / for yf a man wyll graunte the rente / in suche case vnto another / reseruynge to hym the reuersyon of the lande / thoughe the tenaunte attourne to the graunte / hys shall be but a Rente ferme .&c.

¶ Also yf a mā let lande vnto another for terme of lyfe / and after suche lease be confyrmed by a dede the estate of the tenaunte for terme of lyfe / the remaynder to another in fee / and the tenaunte for terme of lyfe accepteth the dede / than is the remaynder in dede to hym to whome the remaynder was graūted or lymytted in the same dede for by the acceptaunce of the tenaunte for terme of lyfe of the same dede hys

is a graunte of hym so an attourne-
ment in lawe/but yet he in the remain- Cap. 2.
der shal haue none accion of waste nor
other wrongs by such remaynder/but
yet that he haue the same dede in his
hande/by whiche the remaynder was
graunted vnto hym/and for this that
in suche case the tenaunte for terme of
lyfe wyll retayne to hym the dede/to
the entente that he in the remaynder
shall haue no accyon of waste agaynst
hym/for this that he may not come to
haue the possessyon of the dede. ¶ It
shalbe good in suche case for hym in the
remaynder that a dede endented be
made by hym that wyll make the con-
fyrmacyon/and the remaynder ouer.
And that he that maketh suche con-
fyrmacyon delyuer a parte of the en-
denture to the tenaunt for terme of life
and the other parte to hym that hathe
the remaynder. &c. And than he by the
wronge of the parte of the endenture
maye haue an accyon of waste agaynste
the tenaunte for terme of lyfe/and all
other aduauntage that he i the remai-

Ca.r. remaynder maye haue in suche case.
¶Also yf.ii.toyntenauntes be/ wherby
letteth lande to another for terme of
lyfe/ yelduynge to them and to theyre
heyres a certaine rent by yere. In this
case yf one of the.ii.toyntenauntes in
the reuercyon release to the other toyn
tenaunt in the same reuercyon/ this re
lease is good/ and he to whome the re-
lease made shall haue onely the rente
of the tenaunt for terme of lyfe/ & shall
haue a writte of waste agaynste them
though he neuer attourned by force of
such release/ & the cause is for the pryo
ryte & ones was dyuyded the tenaunt
for terme of lyfe and them in the reuer
cyon. In the same maner/ and for the
same cause it is where a man letteth
lande to another for terme of hys lyfe
the remaynder to another for terme of
hys lyfe/ reseruynge the reuercyon to
the lessoure / in this case yf he in the
reuercyon release to him in the remayn
der .&c. And to hys heyres all hys
ryght .&c. Than he in the remaynder
hath a fee. &c. And shall haue a writ of
waste agaynste the tenaunt for terme
of lyfe

of lyfe without any attournement of hym. &c. Cap. lx

¶ Also yf a leafe be made for terme of lyfe the remaynder vnto another in the taple / the remaynder ouer to the ryght heyres of the tenaunt for terme of lyfe / in thys case yf the tenaunt for terme of lyfe graunte hys remaynder in fee to another by hys dede / that remaynder by and by passeth by his dede without any other attournement. For yf any ought to attourne / in thys case / it shulde be the tenaunte for terme of lyfe. And it were in vayne that he attourne vpon hys owne graunt. &c.

¶ Also yf there be lorde and tenaunte / and the tenaunt holdeth of the lorde by certayne rent / and by synglyes ser uyces yf the lorde graunt the serupces of the tenaunt by fyne / the serunces be by and by in the graunter by force of the fyne / but yet the lorde maye not dystrayne for any parcell of hys serup ces without attournemente. But yf the tenaũt dye his heyre beynge within age the lorde shal haue the warde of the body of the heyre and of the lande

Cap. ix. &c. How be it that he neuer attourned
For thys that the seygnoury was in
the graunte mayntenaunte by force of
the fyne. And also in some case of the
tenaunt dye without heyre / the lorde
shall haue the tenauncye by waye of
eschete. In the same maner it is of a
man graunte the reuercyon to hys te-
naunte for terme of lyfe to another by
fyne / the reuercyon passethe none to
the graunte / by force of the fyne / but
the graunte shall neuer haue accyon
of waste without attournement. &c.
But yet if the tenaunt for terme of lyfe
alyene in fee the graunte maye enter.
&c. For this that the reuercyon was in
hym by force of the fyne / and suche a
tyenacyō was to hys disinheryaunce
But in thys case where the lorde grau-
teth the scruyces of hys tenaunte by
fyne if the tenaunt dye / hys heyres be-
yng of full age the grauntee by the fyne
shall not haue the reliefe / nor neuer shal
dystrayne for the reliefe excepte there
had ben an attournement of the tena-
unte to that dyed. &c. for of such thynges
that lyeth in dystresse vpō the which

a wyfe

a writ of replegiare is sued. &c. a man ought to auowe the taking good and right wyle. &c. ther ought to be attournemente of the tenaunt. How be it that the graunte of suche serupces be by fyne. But to haue warde of landes and tenementes holden durynge the nonage of the heyre or of them to haue by waye of eschete ther needeth not any dyscrelle. &c. But an entre in the lande by force of reygnt of the seygniourp that the graunte hath by force of the fyne &c. Cap. lx

¶ Also in diuerse boroughes or cytes where tenemētes within the same boroughes or cytes / bene deuysable by testament by the custome / and the vse &c. yf in suche boroughe or cyte a man be seased of rente serupce or of rente charge / and he deuyseth suche rent or serupce to another by hys testament / & dyeth &c. In this case he to whom the deuyse is made maye distrayne for the rent or the serupces behynde / howe be it that the tenaunte neuer attourned. In the same maner it is / where a man letteth such tenemētes deuysable

Cap. xi. to another for terme of lyfe or for terme of yeres / and deuyseth the reuercyon by hys testament to another in fee or in fe tayle & dyeth / and anone after that the tenaunt maketh waste / he to whō the deuyse was made shal haue a wryt of waste / how be it that the tenaunte neuer attourned / & the cause is for this that the wyll of the deuysour made by the testament shalbe parformed after the entent of the deuysour / and so the effecte of hys lyeth vpon the attournyng of the tenaunt. &c. Than percase the tenaūt wolde neuer attourne / then the wyll of the deuysour shuld neuer be perfourmed / and therfore the deuyse shal dysayne or haue an actiō of waste. &c. without attourneyncnte / for yf a mā deuise such tenermentes to another by hys testament (habendū sibi imperpetuum) & dyeth & the deuyse entreth / he hath a fe symple (cause que supra) and yet yf a dede of feoffemente were made to hym by the deuysour of the same tenement (habendū et tenendū sibi imperpetuum) yf I pere and seelyn were neuer there vpon made / he shall

haue

haue none estate but for terme of lyfe &c. Cap. 86

¶ Also yf a man seased of manoure whyche is parcell in demesne & parcell in seruyces and therof be dysseased but the tenaunt withholden of ye manour neuer attourne to the dysseasour i this case howe be it that the dysseasour dye &c. and his heyre is in by dyscente/ yet may the dysseasy dystreyne for ye rent beynge behynde and haue the seruyce but if the tenauntes come to the dysseasour and say we become your tenauntes &c. or otherwise made be attournemēt to hym. &c. and after the dysseasoure dyeth seased. &c. than the dysseasy may not dystreyne for the rente/ for this ye all the maner descendeth to the heyre of the dysseasoure. But yf one holde of me by rent seruyce whyche is a seruyce in grosse & another that no right hath/ claymeth the same rent and receyueth and taketh the same rente of my tenaunt by cobaccyon of dysseisse or by other forme and so dysseaseth me by takynge of suche rent/ howe be it that suche a dysseasoure dye so seased by

Capi. .f. suche taxynge of the rent yet after his
dethe I maye well dystrayne for the
same rente beynge behynde before the
dethe of the dysseasour/and after hys
dethe/and the cause is for thys/ it a
suche is not my dysseasour but by elec
cyon at my wyll/for howe be it that he
toke the rente of tenaunte I maye at
all tymes dystrayne my tenaunte for
the rente behynde.&c.so it is to me but
as I wyll suffre the tenaunte to be by
so muche tyme behynde of payment to
me of the same rent/for the paymēte of
my tenaunte to another to whom he
ne ought to paye is no dissesyn to me
nor shall not put me oute of my rente
without my wyll and electyon / for
howe be it that I maye haue assyse a
gaynste suche a taker.&c.yet thys is at
my electyon yf I wyll take hym as
my dysseasour or not so that suche dys
centes of rentes in grosse ne putteth
not oute the lordes fro theyr dystresse/
but that at eche tyme they maye well
dystrayne for the rent behynde/and in
thys case yf after the decease of hym
that so wrongfully take the rente / I

graunt

graunte by my dede the seruyces to a nother and the tenaunte attourneth/ this is good ynough he and the seruyce by suche graunte and attournemente incontynente be in the graunter. &c. But otherwyse it is/ where the rente is parcell of the maner and the dylcontynuour dyeth seased of the hole maner / as in the case before sayde.

¶ Dyscontynuaunce. Cap. xi.

Cap. xi.

DIscontynuaunce is an auncyent wo[r]de in the lawe & hath dyuers sygnyfycacyons . &c . but as to one entente it hath suche a sygnyfycacyon/ that is to saye where a man hathe alyened to another certayne landes o[r] tenementes and dyeth and a nother hathe ryght to haue the same landes o[r] tenemẽtes/but he ne may entre in them because of suche alyenacyon &c. As yf an abbot seased of certayne landes and tenementes in fee/ and he alyeneth the same landes and tenementes to a nother in fee tayle o[r] for terme of lyfe / and the abbot dyethe hys successoure maye not entre in the same landes o[r] tenementes / halue he

it that

Cap. xi. it that he hath ryght to haue them as in the ryght of his house/but he is put to his accyon to recouer the same landes or tenementes which is called a writ de ingressu sine assensu capitum.

¶ Also yf a man seased of lande as in the ryght of his wyfe. &c. and therof enfeoffeth another. &c. and dyeth the wyfe ne maye not entre but she is put vnto her accyon the whyche is called Cui in vita.

¶ Also yf tenaunte in the tayle of certayne landes therof enfeoffe another. &c. and hath yssues dyeth. &c. his yssue may not entre in the lande/howe be it that he hath ryght and tytle to that/ but that he is put to his action that is called a Formedon in descendre.

¶ Also if there be tenaunt in the tayle and the reuertion is to the donour and to his heyres/yf the tenaunte make a feoffement. &c. and dyeth without yssue/ he in the reuertyon may not entre, but is put to his accyon of Formedon in the reuerture: and in the same maner it is where the tenaunte in the tayle of certayne lande whyche the remaynder

is to

is to a nother in the tayle or to a nother in fee yf the tenaunte in the tayle alyeneth in fee or in fe tayle. &c. and after dyeth without yssue they in the remaynder maye not entre/but be put to theyr writ of Formedon in the remaynder. &c. and for thys that by force of suche feoffements & suche alyenacyons in the cases aforsayd and in lyke cases they which haue tytle and ryght after the deth of suche a feoffour or alyenoure maye not entre but be put to theyr accyons/vt supra. Therfore suche feoffementes / and alyenacyons be called dyscontynuances. Cap. xli.

¶ Also yf tenaunte in the tayle be dysseased and he releaseth by hys dede to the dysseysour and to hys heyres al the ryght that he hath in the same lande thys is no dyscontynuaunce for thys that nothynge of ryght passeth to the dysseasour but for terme of lyfe of the tenaunte in the tayle that made there lease. &c. But by the feoffemente of tenaunt in the tayle a Fe symple passeth by the same feoffement by force of statute of 34 H. 8. &c. but by force of a release

passeth

Cap.xi. passeth by the same feoffement by force of ipuere of sealyn.&c.but by force of a release passeth/but the ryght yᵗ he may lawfully and ryghtfully release wyth out hurte or damage to other persones which therto haue ryghte after hys de cease.&c.and so it is a great dyuersyte byt wene a feoffement of the tenaunt in the tayle and a release of the tenaunte in the tayle. But it is sayde that yᵗ te naunte in the tayle in thys case release to the dysseasoure and byndethe hym and hys heyres to warrantyse.&c.& de eth/s this warranty descendeth to his yssue/ than that is a dyscontynaunce because of warrantyse.&c .But if a m haue yssue a son by his wyfe/his wyfe dieth and after he taketh another wife & the tenemētes be gyuen to him & hys seconde wife/and to the heyres of their twe bodyes engendred/and they haue yssue another son/and thā the seconde wife dyeth/and after the tenaūt in the tayle is dysseased & he releaseth to his dysseasour al his right.&c.and bindeth him & his heires vnto warrantyse and dyeth/this is no discontinuaūce to the

yssue

yssue in the tayle by the seconde wyfe but he maye well entre. &c. for this that the warrantyse descended to hys elder brother that his father had by his fyrste wyfe. In the same maner where tenemētes be disc̄endable to the yonger son after the custome of borough engly she ben tayled. &c. & the tenaunte in the tayle hathe yssue. ii. sonnes and is dyssessed & he releseth to his dissesour all his ryght with warrantise & dyeth/ the yonger sonne maye entre vpon the dyssesour notwithstandynge the warrantyse/ for thys that the warrantyse descendeth to the elder son/ for alwaye the warrantyse descendeth. &c. to hym that is heyre by the comon lawe.

¶ Also if an abbot be dyssessed and he releseth to the dyssesoure with warrantyse/ this is no discontynuaunce to his successoure/ for this that notwithstandynge passeth by thys release but the ryght that he hathe duryng the tyme that he is abbote/ and thys warrantyse is expyred by hys p̄yuacyon or by hys deth.

¶ Also if tenaūt i the tayle be seased of certaine

Cap. xl.

certaine lande/ and he letteth the same lande for terme of yeares by force of whiche lease the lessee is in possessyon to which possessyon tyr tenaunt in the tayle by his dede releaseth al his right that he hathe in the same lande to the lessee and to his heyres for euer/ this is no dyscontynaunce / but after the decease of the tenaunte in the tayle hys yssue maye wel entre/ for thys that by suche release nothynge passeth but for terme of lyfe of the tenaũt in the tayle In the same maner yf the tenaunte in the tayle conforme the estate of the lessee for terme of certayne yeres to haue and to holde to hym and to his heyres this is a dyscontynaunce for this that nothynge passeth by suche conformacyon but the estate that the tenaunt in the tayle had for terme of his lyfe.

¶ Also yf tenaunte in the tayle by hys dede graunt to another all hys estate that he hath in the tenementes intayled to hym to haue and to holde all his estate to the other and to hys heyres for euer and delyuereth seasyn accordynge . In thys cáse the tenaute to whom

whom the alyenacyon was made hath done other estate but for terme of lyfe and so it maye well be proued that the tenaunt in the tayle maye not graunt ne alyen ne make any ryghtfull estate of the Franke tenemēt to another parson but for terme of hys owne lyfe.&c. for yf I gyue certayne lande in the tayle to a man/saupnge the reuercyon to me/& after the tenaunte in the tayle enfeoffeth another in fe/the feoffe hath no ryght estate in the tenementes for .ii. causes. One is for that by such feoffement my reuercyon is dyscontinued which is a wronge acte & not a ryghtfull acte. Another cause is yf the tenaunt dye/and hys yssue sueth a writ of formedon agaynst the feoffe/the writ shall say and also the declaracyon that the feoffe wrongfully hym deiected.&c Ergo yf he with wronge hym deiected he had no ryght estate. Lap.xl.

¶Also yf lande be let to a man for terme of his lyfe the remaidre to another in the tayle if he in the remaynder wyll graunt hys remaynder to another in fee by hys dede/& the tenaunt for terme

of

Ca. xl. of lyke attourneth/ thys is no dyscontynuaunce of the remaynder.

¶ Also yf a man be tenaūt in the tayle of auoulone in grosse or of comon in grosse/ yf he by his dede wyl graūt the auoulon or the comon to another in fe thys is no discontynuaunce/ for in suche case the graūtee hath no estate but for terme of the tenaunte in the tayle that made thys graunt. &c. Note well that suche thynge as passe by way of graūt made by dede & not by acte in the contrey. &c. Such graunt maketh no dyscontynuaunce as in the case aforesayd and otherlyke cases. &c. And howe be it that suche thynge be graunted in fe by fyne leuyed in the kynges courte. &c yet they make no dyscontynuaunce. &c

¶ Also yf a man be seased in tayle of landes deuysable by testament. &c. and he deuyseth it to another in fee and dyeth/ and the other entreth/ thys is no dyscontynuaūce/ for thys that no dyscontynuaunce was made in the lyfe of the tenaunt in the tayle. &c.

¶ Also yf an abbot haue a rentcharge of a certayn scruptes of Kent charge/ and

wyll

wyll graunt that reuertyon/ rent ser-
uyce or Rent charge to another in fee/ Cap. 11.
and the tenaunt attourneth. &c. This
is no dyscontynuaunce. In the same
maner it is where an abbote is seased
of auouson or of suche thynges that
passe by way of graunt without ayuere
of seasyn. &c.

¶ Also yf there be graunde father te-
naunt in the tayle father & son/ and the
graunde father is dysseased by the fa-
ther/ & the father maketh a feoffement
in fee without warrantyse and dyeth/
and after the graunde father dyeth/ the
sonne maye well entre vpon the feoffe/
for thys that thys was no dyscontyn-
uaunce in so muche that the father
was not seased by force of the tayle at
the time of the feoffement. &c. but was
seased in fee by the dysseasyn made to
the graunde father.

¶ Also yf a woman inheryte hane an
husbande within age/ which maketh a
feoffemente of the tenementes of the
wyfe & dyeth/ it hath ben questyoned if
the wife may enter or not. And it semeth
to some men that the entre of the wyfe

Ca.xi. after the dethe of her husbande shalbe ieffull in thys case/for whā her husbād made suche a feoffement.&c. He might well enter not withstandynge suche feoffement dureynge the coueture/and he myght not enter in hys owne right but in the ryght of hys wyfe.&c. Ergo suche ryght that he had to enter in the right of hys wyfe.&c. that ryght of enter abydeth to the wyfe .&c. after hys decease/and it hath be sayde that if.ii. Ioyntenauntes beynge within age make a feoffemente in fee and one of the chyldren dyeth/and that other survyueth/in so much that both chyldren myght enter Ioyntly in theyr ipues/ thys ryght of entre groweth al to him that survyueth/ and so he maye enter into the hole.&c.

¶ Also the heyre of the husbande that made the feoffement within age maye not enter/for this that no ryght descendeth to suche an heyre in the case afore sayd for this that the husbande had neuer any thynge but in the ryght of his wyfe, And also whan a chylde maketh a feoffement beynge within age/thys

shall

shall neuer greue nor hurte hym but that he maye well enter.&c. And thys shulde be agaynste reason that suche a feoffement made by him that was not able to make suche a feoffemente shall greue or hurte other to hym outher of theyr entrees.&c. And for these causes it semeth to some that after the dethe of suche an husbande so beynge within age at the tyme of the feoffemente.&c. that hys wyfe maye well enter.&c. Cap. lv

¶ Also yf a woman enheritryce taketh an husbande & hathe yssue a sonne and the husband dyeth/ and she taketh another husbande / and that seconde husbande letteth the lande that he hath in the ryght of his wyfe to another for terme of hys lyfe / and after the wyfe dyeth/ and after the tenaunte to terme of lyfe surrendreth his estate to the seconde husbande.&c. Enquyre yf the sonne of the wyfe maye enter or not in thys case vpon the seconde husbande durynge the lyfe of the tenaunt for terme of lyfe &c. But it is clere lawe in thys cause that after the deth of the tenaunte for terme of lyfe / the sonne of the wyfe ☞ Enquyre

Cap. ix.

may well enter / for thys that the dyscontynuaunce that was made all only for terme of lyfe is determyned .&c. by the dethe of the same tenaunte for terme of lyfe.&c.

¶ Also if the ploñ or vycar of a chyrch alyene certayne landes or tenementes parcell of hys glebe.&c. To another in fee & dieth or resygneth.&c. hys successour may well enter. Notwithstãdyng suche alyenacyon as it is sayde in a Nota Anno. ii. H. iiii. Termino Mychaelis quod sic incipit nota quod dictam fuit pro lege. In a wrytte of accompte brought by the mayster of the colege that yf a parson or a vycare graunte certayne landes that is of the ryght of hys chyrche to another and dieth or chaungeth that his successour may enter. And I trow that the cause is for thys that the parson or vycare that is seased.&c. In ryght of the fee symple dwellynge in none other parson. And for thys cause hys successour maye well enter/ not withstandynge suche alyenacion.&c. for a byshop may

haue

haue a wrytte of ryght of tenementes of ryghte of hys ryllyonrychc/for this that the ryghte of Fee symple abydeth in hym and in his chapter/and a deane maye haue a wrytte of ryghte.&c. for thys that the ryghte abydeth in hym and hys chapytre/and an abbote may haue a wrytte of ryghte/for thys that the ryghte abydeth in hym and in hys couente / et sic de aliis casibus consymilibus.&c. but a person or a vycar may not haue a wrytte of ryght.&c. but the hyghest wrytte that he maye haue is a wrytte/de Juris vtrum/the which is a greate proke that the ryghte of fee symple is in obeyaunce/that is to saye all onely in the remembraunce entendemente and consyderacyon of the lawe/for me semeth that suche a thing in suche a ryhgte that is sayde in dyuers bokes to be in hy obeyaunce is as muche to saye in Latyn. S. talis res vel tale rectum que vel quod non est in homine ad tunc superstite sed tanto modo est et conceſſit in consyderacione et intelligentia legis.&c.

Cap.lx

* Juris vtrum.

Fe symple in obeyaunce.

Cap.ir. et quidem alii dixerunt talem rem and tale rectum esse in nubibus .&c. But I suppose that they vnderstande by these wordes in nubibus. &c. as I haue sayde before.

¶ Also yf a parson of a chyrche dye/ nowe the stanke tenurment of the glebe of the parsonage in no man dureynge the tyme that the parsonage is voyde/ but is in vbeyaunce that is to saye in consyderacion and in tellygence of the lawe tyll another be made parsō of the same chyrche / and immediatly whan another is parson/the stāke tenement in dede is in hym as successour.

obeyaunce. ¶ Also some men paraduenture wyll argue and say that so muche that the parson with the assente of the patron & ordynary may graūt a Rent charge out of the glebe of his parsonage in fe/ & so charge the glebe of the parsonage perpetually. Ergo they haue Fe sipl or .ii. or one of them hath Fe simple at the lefte. &c. to thys it may be answered that it is pryncyple in lawe that of euery lande there is a Fee symple in some

fame man/or elles the fee fympie is in
obeyaunce. ꝛc. And another pryncypie
is that euery lande of Fee fympie. ꝛc.
maye be charged with a rent charge in
fee by one waye or by another. ꝛc. and
whan fuche rente is graunted by the
dede of the perſon the patron and the
ordynarye in fee / none fhall haue no
preiudice or loſſe by force of fuch graũt
But the grauntours i theyr lyues / and
the heyre of the patron and ſucceſſoure
of the ordynary after theyr deceaſes &
after fuch charge if the patron dye his
ſucceſſoure maye not come to the fayde
church to be preſẽ of the fame churche
by the lawe. But by preſentement of ye
patron and admyſſyon & inſtytucyon
of the ordynary. ꝛc. And for this cauſe
it behoueth that the ſucceſſoure holde
hym contente / and agreed wyth that
whiche his patron and ordynary law-
fully haue done before. But the cauſe
that fuche rent charge is gone for this
that they whyche had entrees in the
fayde church / that is to fay the patron
after the lawe temporall and the or-
dynary after the lawe ſpyrytuall were

Cap. xi.

Capi. xi. affected or partyes vnto such a charde. &c. and thus semeth the very cause that suche grefe maye be charged in perpetuyte. &c

¶ Also yf a bysshope alyene landes which ben parcell of hys bysshopryche a do dyeth/thys is a dyscontynuaunce to hys successours/for thys that hene may not entre but is put to his wryte. De ingressu sine assensu capitull. &c.

¶ Also yf a deane alyen lande parcell of his deanry and dyeth/his successour ne maye not entre/but he maye haue a wryte Et ingressu sine assensu episcopi et capituli. &c. But yf the deane and the chappytre haue lande to them and to their successours in comō. &c. Howe be it that the deane alyen suche landes hys successours maye well entre for thys that the franke tenemente at the tyme of the alyenacyon was as well in the chappytre as in the deane. But where the deane is sole seased as in ryghte of hys deanry/than suche alye nacyon is a dyscontynuaunce to hys

Cap.xl.

succeſſoure as it is afore ſayde. Also some men wyll argue and ſaye that yf an abbot and hys conuente be ſeased in theyr demeane as of fee of certayne lãde to them and to theyr ſucceſſours. &c. and the abbote without aſſente of hys conuente alyeneth the ſame lande vnto another and dyethe / thys is a dyscontynuaunce to hys ſucceſſours. &c. and by the ſame they wyll ſaye that where a deane and a chappytre be ſeaſed of certayne lande to them or to theyr ſucceſſours / yf the deane alyene the ſame landes. &c. thys ſhall be a dyſcontynuaunce to hys ſucceſſours. So that hys ſucceſſoure ne maye not entre &c. To thys maye be anſwered that therets greate dyuerſyte bytwene the ſayde two cauſes / for whan an abbote and the conuente be ſeaſed. &c. yet yf they be dyſſeaſed the abbote ſhall haue allyse in hys owne name wythoute the nampynge of hys conuente. &c. And yf a man may wyl ſue a writ cipe quod reddat of the ſame landes whan they be in the handes of the

Capt. xl.

abbot and his couent it behoueth that suche an accyon be sued agaynste the abbot onely without nampynge of the couent. &c. For thys that all they bene deed persons i the lawe saue onely the abbot that is soucrayne. &c. and thys is cause of the soucrayntie. &c. for elles he shulde be as one of the other mõkes of the couente. &c. But the deane and the chapitre be no deed persones in the lawe. &c. For eche of them maye haue an accyon by hym selfe in dyuers cases and of suche landes or tenementes whyche the deane and chapytre haue in comon. &c. yf they be dysseased that the deane and the chapytre shall haue assyse and not the deane alone and yf another wyll haue an accyon realle of suche landes or tenementes agaynste the deane. &c. yt behoueth hym to sue agaynste the deane and chapytre / and not agaynste the deane alone. &c. and so appereth great diuersytie betwene these two cases. &c.

¶ Also yf the mayster of an hospytall dyscontynue certayne londe of hys hospytall his successours ne maye not entre

entre but he is put vnto his writ. De ingressu sine assensu confirmet fororū suorum/and all suche writtes do playn ly appere in the regyster..etc.

Rempter. Cap. xii.

REmpter is an auncyente terme in the lawe / & it is where a man hath .ii. tytles to landes or tenemētes that is to say one of an elder tytle and another of the later tytle/ & he cometh to the lande by the latter tytle/ yet the lawe adiugeth him to be in by force of the elder tytle / for thys that the elder tytle is the more sure tytle & the more worthy tytle/ & thā whā a mā is iuged in by force of the more elder tytle thys is vnto him sayde a rempter/for thys that the lawe shall admyt to be in the lande by the elder title/as if the tenaūt in the tayle/discontynue the tayle and after he dyssesseth hys dyscontynuee/ and so dyeth seased whereby the tenementes descende to hys yssue / as to hys cosyn inheritable by force of the tayle / in thys case thys is to dym to whom the tenementes descende which hath

Cap. xii

Rempter by reason of dyscont.

Cap.xii

hathe tyghte by force of the tayle a re mytter in the tayle taken/for that that the lawe shall put and adiuge hym to be in by force of the tayle whyche is hys elder tytle/ for yf he shall be in by force of dyscent than the dyscontynue may haue a wryt of entre vpon the dyf seasyn in the per / agaynste hym and recouer the tenementes / and hys da mages/ but in so muche that he is in by force of the tayle / the tytle and the intresse of the dyscõtynuee is al vtterly adnulled and defeted &c.

¶ Also yf tenaunt in the tayle infeoffe in fee hys sonne or hys cosyn in herita ble by force of the tayle / the whyche sonne or cosyn at the tyme of feoffe ment is within age/ & after the tenaũt in the tayle dyeth/ and he to whom the feoffement was made in hys heyre by force of the tytle in the tayle / this is a remytter to the heyre in the tayle to whome the feoffemente is made. For howbe it that durynge the lyfe of the tenaunte in the tayle that made the feoffement such heyre shall be adiuged by force of the feoffement/ yet after the

dethe of the tenaunte in the tayle the heyre shalbe adiudged in by force of the tayle .&c. and not by force of the feoffement/ and though that suche an heyre was of full age at the tyme of the deth of the tenaunte in the tayle that made the feoffement/ this maketh no matter yf the heyre were wythin age at the tyme of the feoffement made to hym/ and yf suche an heyre beynge wythin age at tyme of the feoffemente cometh to full age lyuynge the tenaunte that made the feoffemente and so beinge of full age he chargeth by hys dede the same lande with a comen of pasture or wyth a Rente charge/ and after the tenaunte in the tayle dyeth. Nowe it semeth that the lande is dyscharged of another estate in the lande than he was at tyme of the charge made/ so much that he is in hys remytter by force of the tayle/ and so the estate that he had at the tyme of the charge is vtterly defeted.&c. Cap. xii

¶ Also a pryncypal cause is why suche an heyre i the cases aforesayde/ & other lyke shalbe said this remytter

is

Cap. xii

is for thys that there is no person a-gaynste whome that he maye sue hys writ of Formedon / for agaynste hym selfe he maye not sue/and he maye not sue agaynst none other/for none other is tenaūt in the franke tenemente/and for that cause the lawe adiudgeth him in hys remytter/ that is to saye in such plite as he had lawfully recouered the same lande against another.

¶ Also if lande be tailed to a man and hys wyfe/and to the heyre of theyr. ii. bodyes engendred/ the whyche haue yssue a doughter and the wyfe dyeth / and the husbande taketh another and hath yssue another doughter and dyeth contynueth the tayle and after he dyscreaseth the discontynue; and so dyethe seased / nowe the lande descendeth to the two doughters/ In thys case as to the eldest doughter that is inheritable thys is a remytter but of the halfe/and as to the other halfe she is put to her accyon of formedon agaynst her syster for in thys case two systers benot tenaūtes in pertenaty but be tenaūtes in comon/ for this that they be in by

¶ Tenaūtes in cōmō by dyscent wher as ancestre died sole seysyd.

dyuers

hyuers tytles / for the one hyuer is in her remptter by force of the tayle as to that that vnto her belongeth. And the other hyuer hyther is in as to that that belongeth to her in fe symple by the discente of her father. In the same maner it is yf the tenaunt in the tayle enteoffe his heyre apparaunte in the tayle beynge the heyre within age & another Joyntenaunt in fee/and the tenaunt in the tayle dyeth. Nowe the heyre in the tayle is in his remptter as to the halfe and as to that other halfe he is put to hys wryt of Formedon, &c. Cap.xii

¶ Also yf tenaunt in the tayle enfeoffe hys heyre apparaunt/the heyre beyng of full age at tyme of the feoffement/ and after the tenaũt in the tayle dyeth hys is no remptter to the heyre / for this that it was his owne folye that he beynge of full age wolde take suche feoffement .&c. But suche folye maye not be adiudged in the heyre beynge within age at the tyme of the feoffement. &c

¶ Also yf tenaunt in the tayle enfeoffe a woman in fee and dyeth/& hys yssue within age taketh the woman to wyfe

hys

Ca. xii. thys is a remptter to the chylde/ and the wyfe than hath nothyng/for thys that the husbande/and the wyfe beue but one person in the lawe. And in that case the husbande may not sue a writ of Formedon / but yf that he wyll sue agaynst hym selfe the whiche shall be inconuenyente / and for that the lawe iugeth the heyre in hys remptter/ for this that no foly may be areted to him beynge within at the tyme of the spousals. &c. And yf the heyre be in hys remptter by force of the fayle / it foloweth by reason that the wyfe hath no thynge . &c. for in so muche that the husbande / and the wyfe be but one person the lande maye not be seuered by halfes/and for suche cause the husbande is in his remptter of the hole. But otherwyse it is yf suche an heyre be of full age at tyme of the spousals that than the heyre hathe nothynge but in the ryght of his wyfe.

remitter by reason

¶ Also if a woman sealed of certayne lãde in fe taketh an husbande/the whiche alyeneth ye same lande to another in

in fee/and the alyence leteth the same lande to the husbande / and the wyfe for terme of theyr two lyues /sauynge the reuercyon to the lessour and to the heyres/in thys case the wyfe is in hys kemptter / and she is seased in dede in her demeane as in fee as she was before / for thys that the takynge of estate shalbe adiudged in the lawe/the dede of the husbande/and not the dede of the wyfe / so that no foly maye be iudged in the wyfe that is couerte in suche case • And in thys case the lessoure hathe nothynges in the reuercyon for thys that the wyfe is seased in fee. But in thys case yf the lessour wyll sue an accyon of waste agaynste the husbande and hys wyfe / for thys that the husbande hathe made waste/ the husbãde may not barre the lessour for to shewe thys that the takynge of estate made vnto hym and to his wyfe made a Kemptter to hys wyfe/ for thys that the husbande stoppede to saye thys agaynste hys feoffemente/ and owne reyrysell of estate for terme of lyfe to hym/and hys wyfe/ and yet

Cap.xlv

of the lees enfeoffed

the

Ca.xii. the lessour hath no recuercpon/ for this that the fee symple is in the wyfe/ So a mā may se a matter in this case that a man shalbe stopped by a matter in dede thoughe no writynge by dede indented or otherwyse be thereof made. But pfin an accyon of waste the husbande make defaute at the graunde dystresse/ and the wyfe prayeth to be receyued/ and is receyued/ she shall well shewe al the matter and howe she is in her remytter/ & shall barre the lessoure of hys accyon. For in euery case that the wyfe is receyued for defaute of her husbande she shall plede and haue the same aduauntage in pledynge as she were a woman sole. And howbeit that the alyenee made the lease to the husbande and hys wyfe by dede enden ted: yet this is a remytter to the wyfe/ & thoughe the alyenee yelded the same lande to the husbande and hys wyfe by fyne for terme of theyr lyues/ yet this is a remytter to the wyfe/ for this that the wife couert that taketh estate by fyne shall not be crampned by the indyctes. And here note well that whā any

Estopped by a matter in dede.

any thynge that palle fro the wyfe that is couert of huſbãde by force of a fyne/ the huſbande and hys cõpſaunce of rygt to another. &c. or make a geaſte and yelde to another for eſteate by a fyne to another / Et ſic de ſimilibus / where the rygt of the wyfe palle the fro the wyfe by force of the ſame / the wyfe in al ſuche cales ſhalbe examyned before that the fyne be accepted. And ſuche fynes conclude ſuche wynes couerte for euer. But where nothynge is moued in the fyne but al onely that the huſbande and the wyfe take eſtate by force of the ſame fyne /thys ſhall conclude the wyfe / for thys that in ſuche cale ſhe ſhall neuer be examyned. Capxlii

¶ Alſo yf tenaunte in the tayle dyſcontynue the tayle and hathe a doughter and dyethe / and the doughter beynge of full age taketh an huſbande / and the dyſcontynuaunce maketh a leaſe of thys to the huſbande and hys wyfe for terme of theyre lyues / thys is a rempter in dede of the wyfe / and the wyfe is in by force of the tayle / cauſa qua ſupra.

Cap. xii ¶ Also yf lande be gyuen to the husbande & hys wyfe to haue and to holde to them and to the heyres of theyr . ii. bodyes begotten/ & after the husbande alyeneth the lande in fee and taketh the agayne an estate to hym and to hys wyfe for terme of theyr two lyues. In this case hys is a remytter in dede to the husbande and the wyfe maugre the husbande/it maye not be a remytter to the wyfe excepte it be a remytter to the husbande/ for hys that the husbande and hys wyfe be but one person in the lawe though that the husbande is stopped to clayme / hys to be a remytter in hym agaynst hys alyenacyon/ and hys owne reprysell as it is aforesayde. ¶ Also yf lande be gyuen to a woman in the tayle/the remaynder to another in the tayle / the remaynder to the thyrde in the tayle / the remaynder to the fourthe in fee/and the wyfe taketh an husbande / and the husbande discontynueth the lande of the wyfe/ by hys discontynuaunce all the remaynders be discontynued/for yf the wyfe dye wythoute yssue / they in the remaynder

maynoze shall haue no remedy but to sue theyze wryttes of Formedon in the remaynoze whan they come to theyze tyme. &c. But yf after suche dyscontynuaunce estate be made to the husbande & his wyfe for terme of theyr. ii. lyues or for terme of a nothers lyfe / or ano ther estate .&c. for thys that thys is a remytter to the wyfe/thys is a remytter to all those in the remaynoze . &c. for after thys that the wyfe that is in her remitter dyeth without yssue they in the remaynoze may entre. &c. wythout any accion or sute. &c. In the same maner it is of them whyche haue the reuercyon after suche tayle. &c. Cap. xli

¶ Also yf a man let a house to a woman for terme of her lyfe sauynge the reuercyon to the lessour/ and after one sueth a faynte and false accyon against the woman and recouereth the house agaynst her by defaute/ so that the woman may haue agaynst hym a wryte . Quod ei deforcia/ after the statute of westm the seconde/capitulo .iiii. nowe is the reuercyon of the lessoure dyscontynued so y^t he ne may haue no accyon

Cap. xii

Remitter by reason of a rē.

of waste. But in thys case yf the woma take an husbande / and he that recouereth / letteth the house to the husbande & his wyfe for terme of theyr .ii. lyues / the wyfe is in her remytter by force of the fyrst lease. And yf the husbande & the wyfe make waste / the fyrst lessoure shal haue agaynst hym a wryt of waste for this / that in so muche that the wyfe is in her remytter / he is remytted to hys reuercyon. But it semeth in thys case yf he that here cometh by the false accyon wyl bryng another wryte of waste agaynst the husbande & his wyfe the husbande hath no remedy agaynst hym but to make defaute at the greate destresse .&c. And to cause the wyfe to be deceyued and to plede the matter a-gaynst the seconde lessoure / & to swere that the accyon by which he recouered was false and fayned in the lawe / and so the wyfe may barre .&c.

¶ Also yf the husbande dyscontynue the lande of hys wyfe and after taketh estate to hym & to hys wyfe / and to the thyrde man for terme of theyre lyues or i fe thys is a remytter to the woman / but

but as to the moyte. And as for the o-
ther moite it behoueth her after pe deth
of her husbande to sue a Cui in vita. &c. Cap.xi.

¶ Also yf the husbande dyscontynue
the lande of hys wyfe & go ouer the see/
and the dyscontynue let the same lande
to the woman for terme of lyfe / and
delyuer to her seasyn, and after the hus-
bande cometh and agreeth to that ly-
uereth her seasyn / thys is a rempter
to the woman / and yet yf the woman
had bene sole at the tyme of the lease
made to her/thys shulde be to her a re-
mpter/but in so muche as she was co-
uert baron at the tyme of the lesse and
the lyuere of seasen made to her though
that she only take the lyuere of seasyn/
thys was a rempter to her bycause a
woman couerte shalbe adiudged as an
infant within age in suche case. &c. En ☞ In-
quyre in this case if the husbande whā quyre.
he cometh agayne wyl dysagree to the
lease and lyuere of seasyn made to hys
wyfe in hys absence yf thys shall put
the woman fro her rempter.

¶ Also yf the husbande dyscontynue
the tenementes of hys wyfe/and the dis

Cap. xi.

Collusion abozred in the lawe.

is dyſſeaſed/ and after the dyſſeaſoure letteth the ſayde tenementes to the huſbande and hys wyfe for terme of lyfe/ thys is a rempter to the wyfe/ but yf the huſbande and the wyfe were of coupn or conſent that the dyſſeaſyn ſhuld be made/ than it is no rempter to the wyfe bycauſe ſhe is a dyſſeaſoureſſe. But yf the huſbande were of coupn and conſent to the dyſſeaſyn/ and not the wyfe/than ſuche leaſe made to the wyfe is a rempter bycauſe that no defaute was in the wyfe.

¶Alſo yf ſuche a dyſcontynuee had made eſtate of free holde to the huſbande and the wyfe made by endenture vpon condycyon .S. reſeruynge to the dyſcontynuee a certayne rente/and for defaute of paymente a reentre/ and bycauſe that the rente is behynde the dyſcontynuee entreth of thys entre the woman ſhall haue Aſſyſe of nouel dyſſeaſyn after the dethe of her huſbande agaynſte the dyſcontynuee/ bycauſe that the condycyon was holly annulled in ſo muche as the woman was in her rempter/ yet the huſbande with

hys

his wyfe coulde not haue assyse because the husbande is stopped. Cap.xii

Also yf the husbande dyscontynue the tenementes of hys wyfe / and taketh estate agayne for terme of hys lyfe the remaynder after hys dyssease to his wyfe for terme of her lyfe / in thys case/ this is no remytter to the wyfe durynge the lyfe of her husbande bycause that durynge the lyfe of the husbande/ the wyfe hathe nothynge in the free holde but yf in thys case the wyfe ouer lyue the husbande/ thys is a remytter to the wyfe bycause that a free holde in lawe is fallen vppon her maugree her wyll/ and in so muche that she can haue no accyon/agaynste none other parson / and agaynste her selfe she can haue no accyon/therfore she is in her remytter . For in thys case thoughe that the woman enter not in the tenementes /yet a straūger that hathe cause to haue accyon maye sue his accyon agaynste the woman of the same tenemētes bycause she is tenaunte in lawe thoughe she be not tenaunte in dede/for tenaunt of franke

Remitter by reason of a rel.

Cap. xii

tenaunte in dede is he / that yf he be dysseased of hys franke tenement maye haue assyse / but tenaunt in lawe before hys entre shall haue no assyse / & if a mā seased in fe of certayne lande hath yssue a son which taketh a wife / & the father dyeth seased / and after the sonne dyeth before any entre made by him in to the lande / the wyfe of the sonne shalbe endowed in the lande / and yet he had no franke tenemente in dede but he had a fee and a franke tenemente in lawe / and so note well that a Precipe quod reddat maye as well be mayntened agaynste hym that hathe franke tenemente in lawe as agaynste hym that hathe franke tenemente in dede.

Note of whiche franke tedemēt assyse shalbe mayntened:

¶ Also yf a tenaunte in the tayle haue yssue .ii. sonnes of full age / and he letteth the tayled lande to the elder sonne for terme of hys lyfe / the remaynder to the yonger sonne for terme of hys lyfe / and after the tenaunte in the tayle dyeth . In thys case the elder sonne is not in hys remytter because he toke estate of hys father / but if the

the elder ſonne dye without yſſue of Cap.xii
hys body / than thys is remytter to the ponger brother becauſe he is heyre in the tayle/and a Franke tenement in lawe is fallen vpon hym by force of the remaynder / and ther is none agaynſte whome he may ſue hys accyon.&c. In the ſame maner it is where a man is dyſſeaſed & the dyſſeaſoure dyeth therof ſeaſed /and the tenementes deſcende to hys heyre & the heyre of the dyſſeaſour maketh a leaſe to a man of the ſayde tenementes for terme of lyfe the remaynder to the dyſſeaſour for terme of lyfe or in tayle or in fee and the tenaunt for terme of lyfe dyeth. Nowe thys is a remytter to the dyſſeaſy.&c. Cauſa qua ſupra.

¶Alſo yf tenaunt in the tayle enfeoffe hys ſonne and another of the tayled lande in fee / and lyuere of ſeaſyn is made to the other accordynge to the dede/ the ſonne not knowynge therof nor agreynge to the feoffement / and after he that toke the lyuere of ſeaſyn dyeth and the ſonne occuppyeth not the lande nor taketh any profite of the land

Capxii. lande durynge the lyfe of hys father / & after the father dyeth / nowe thys is a remyttter to the sonne bycause the fre holde is fallen vppon hym by the survyvour and no defaute was in hym be cause he neuer agreed .&c. In the lyfe of hys father and ther is none agaynst whom he maye pursue hys wryt of formedone.&c. Fo⁹ if a man be dysseased of certayne lande / & the dysseasour maketh a dede of feoffemente wherof he enfeoffeth .B. C.&.D. And the lyuere of seasyn is made to .B.&.C.but .D. was not at the lyuere of seasyn nor neuer agreede to the feoffement nor neuer wolde take the profytes .&c. And after .B.&.C.dyes. D.ouer lyueth them / and the dysseasy bryngeth hys wryt /sur dysseasyn in the per .agaynst the same shall sue all the matter / and howe that he neuer agreed to the feoffemente/and so he shall dyscharge hym selfe of damages so that the demaundaunt shal recouer no damage agaynst hym thoughe that he be tenaunte of Franke tenemente of the lande . And yet the statute of Glocester wyll that

the

the dyssesy shal recouer damages on a writte of entre grounded vpon the Nouell dyssesyne agaynste hym that is founde tenaunt . And thys is a proue in the other case that in so much as the yssue in the tayle cometh to the Franke tenement & not by hys dede nor by hys agreement that after the deth of hys father this is a remutter to hi/m so much that he can sue an accyon of formedon agaynst none other parson.&c. Cap.xii

¶Also yf an abbot alyene the lande of hys house to another in fee/ and the alyenee by hys dede chargeth the lande with a Rent charge in fee and after the alyenee enfeoffethe the abbote with lycence to haue and to holde to the abbot and to hys successours for euer/and after the abbot dyeth/and another is chosen and made abbote . In thys case the abbote that is the successoure/ and hys couente be/ in theyr rempter/and shall holde the lande dyschargede bycause that the same abbot can not haue any accyon of writte of entre Sine assensu capituli of the same landes agaynste none other parsone . In the same maner it is where a byshope or

Capit. or a deane or other suche persons alyen &c. without assente. &c. And after the bysshope taketh estate agayne of the sayde lande by lycence to hym / and to hys successours / and after the bysshope dyeth hys successour is in his kempter as in ryght of hys churche / and shall defete the charge. &c. Causa qua supra.

Fauri tick de rec par- dek. ¶ Also yf a man sue a false accyon agaynste tenaunte in the taple / as yf a man wyll sue agaynste hym in wryt of entre in the post / supposynge by hys wrytte that the tenaunte in the taple had not hys entre but by. A of. B. that dysseased / the graunde father of the demaundaunte / and that is false / and he recouereth agaynste the tenaunte in the taple by defaute / and sueth execucyon / and after the tenaũt in the taple dyeth / hys pssue maye haue a wrytte of formedone against hi that recouered & yf he wyll plede the recouere agaynst the tenaunt in the taple / the pssue may say that the sayde . A of. B. dysseased not the graunde father of hym that recouered in the maner as hys wrytte supposeth / and so he shall falsefy his recouere.

couer. Also suppose that that was true that the sayde .A. of .B. dyssesed the graūde father of the demaūdaūt y^t recouered/ & that after the dyssesyn the demaundaūt or hys father or his graūde father by a dede had released to the tenaunt in the tayle all the ryght that he had in the lande. &c. And thys not withstandynge he sueth hys writte of entre in the post agaynste the tenaunt in the tayle/ in the maner as is a forsayde/ & the tenaunte in the tayle pledethe to hym/ that the sayde .A. of B. dyssesed not hys graunde father as hys writte supposeth/ and vppon this they be at yssue/ and the yssue is founde for the demaundaunt/ whereby he hathe iugemente to recouer/ and sueth execucyon/ and after the tenaunte in the tayle dyeth/ hys yssue maye haue a writte of formedō agaynste hym that recouered. And yf he wyll plede the recouere by accyon tryed agaynste hys father tenaunte in the tayle/ then he may shewe and plede the release made to hys father/ and so the accyon that was sued was sayne in the lawe .&c. And it semeth

Cap. xii

Faure ta de recouer par sayntе plede

Cap. xi.

Faynt accyon.

False accyon.

methe that faynte accyon is as muche to say in englysshe fayned accyon/ that is to saye / suche accyon that thoughe the wordes of his writ be true yet for certayne causes he hathe no cause nor tytle by the law to recouer by the same accyon. And false accyon is wher the wordes of the writ be false/ and in the two cases before sayde yf the case were suche that after suche a recouere / and execucyon therof made the tenaunte in the tayle hadde dysseased hym that recouered and therof dyed seased wherby the lande also descended vnto his yssue thys is a remytter to the yssue and the yssue is in by force of the tayle and for that cause I haue put these two cases beforesayde to enforme the my sonne that yssue in the tayle by force of a dyscent made to hym after a recouere / and execucyon therof made agaynst hys auncestre may be as well in his remytter as he shulde be by dyscent made to hym after a dyscontynuaunce made by his auncestre of ye tayled landes by fraffemēt of ye countrey or other wyse

¶ Also yf the same case aforsayde yf the

case

case wer such ye after that ye demaūdaūt had iugemente to recouer agaynste the tenaunt in the tayle / and the same tenaunte in the tayle dyed before any execucyon had agaynste hym wherby the tenementes descende to hys yssue / ye he that recouered suche a scire facias to haue execucyon of the iugemente agaynst the yssue in the tayle the yssue shall plede the matter as before is sayde and so shall proue that the recouere was false or faynte in the lawe / and so shall barre hym to haue execucyon of the iugement. &c. Cap. xii

¶ Also yf tenaunte in the tayle dyscontynue the tayle and dye / and thys yssue bryngeth a wrytte of Formedon agaynste the dyscontynuee bryngē tenaunt of the fre holde of the lande and the dyscontynue pleedeth that he is not tenaunt but otherwyse dysclameth fro the tenaunsy in the lande / in thys case the iugement shalbe that the tenaunte go without daye / and after suche iugemente the yssue in the tayle that is demaundaunte may wel entre in the lāde notwythstandynge the dyscontynuaunce.

Cap. xii dyscontynuaunce. And by suche entre he shall be adiudged in hys rempter/ the cause is bycause that yf any mā sue A precipe quod reddat ageynst any tenaunt of free holde/ in whiche accyon the demaundaunte shall not recouer damages/ and the tenaunte pledeth he not none tenure but otherewyse dysclameth in the tenaunce/ the demaundaunt maye not auerre his wrytte that he is tenaunte as the wryt supposeth And for that cause the demaundaunte after that/ that iugemēt is gyuen that the tenaunt shall go without day maye enter in to the tenementes demaunded/ the whiche shall be as greate aduauntage to hym in the lawe as yf he had iudgement to recouer ageynste the tenaunt. And by suche entre he is in hys rempter by force of the tayle/ but by wrytte the demaundaunt recouereth damages ageynst the tenaunt/ the demaundaunte maye auerre that he is tenaunt as the wrytte supposeth/ and that for the aduauntage of the demaundaunt for to recouer hys damages/ elles he shall not receyue hys damages

the

The which damages be or were gyuen
hym by the lawe. Cap. xli

¶ Also yf a man be dysseased & the dis-
seasour dye his heyre dyspgesm by dys-
cent nowe the entre of the dysseasy is
taken away. And if the dysseasy bryng
his wryte of entre vpon the dysseasyn
in the per agapnste the heyre/ and the
heyre dysclaymeth in the tenaunce. &c.
the demaundañt maye auerre his wryt
that he is tenaunte as the wryt suppo-
seth yf he wyl for to recouer his dama-
ges. But yet yf he wyll leue the auer-
rement. &c. he may lawfully entre into
the landby cause of the dysclamer/not
withstandynge that hys entre before
was taken awaye. And that was ad
iudged before my mayster syr Roberte
Danby late chyef iustyce of the comon
place and dyspampons.

¶ Also where the entre of a man is
lawfull thoughe that he take estate to
hym whan he is of full age for terme
of lyfe/ or in taple/ or in fe/ thys is a re-
mytter to hym/ alsuch takynge of estate
be not by dede indented or by matter
of recorde that shall continue or stop

Cap. xii.

hym. For yf a man be dysseased and thereof taketh estate of the dysseasour without dede or by dede poll/ this is a good kemptter to the dysseasy.

¶ Also yf a man let lande for terme of lyfe to a nother whiche alyeneth to a nother in fee / & the alyenoure maketh estate to the lessour/this is a kemptter to the lessoure by cause hys entre was lawfull.

¶ Also yf a man be dysseased and the dysseasour letteth the lande to the dysseasy by dede poll or without dede for terme of yeres wherby the dysseasy entreth / thys entre is a kemptter to the dysseasy. For in suche case where the entre of a mans lawfull / and a lease is made to hi/thoughe that he clayme by wordes in the cõtrey that he hathe estate by force of suche lease or saythe openly that he claymeth nothynge in the lande/but by force of such lease/yet thys is a kemptter to hym / for suche clayme in the contrey is nothynge to purpose/but yf he clayme in the courte of recorde that he hathe estate but by force of suche lease and not otherwyse than

than he is concluded.&c.

¶ Also yf two Joyntenauntes sealed of certayne lande in fee the one beynge of full age the other within age be dysseased/& the dysseasour dyeth seased & hys yssue entreth/the one of the joyntenauntes beynge than wythin age/ & after that he cometh to full age/ the heyre of the dysseasour letteth the lande to the same Joyntenaunce for terme of theyr lyues/this is a remyttes as to the halfe to hym that was wythin age bycause that he is seased of that moyte that belongethe to hym in fee/ bycause hys entre was lawfull. But the other joyntenaut hath in the other halfe but estate for terme of hys lyfe by force of the lefe bycause hys entre was taken awaye.&c. Estoppell.

¶warrantye. Cap.xiii.

IT is comonly sayd that there be iii. maner of warrantyes / that is to saye/warrantye lyneall/ warrantye collaterall / and warrantye that begynnethe by dysseasyn. And it is Ca.xiii.

Ca.xiii. to wyt that before the statute of Glocester al warantyes were defended to them whiche were heyres to them that made the warranty were barres to the same heyres to demaunde any landes or tenementes agaynste thole warrantyes / excepte the warrantyes that began by dysseasyn/for such warranty was neuer barre to the heyre by cause the warranty began by wronge that is to say by dysseasyn.

¶ warranty that begynneth by dysseasyn is suche forme. As where there is father and son / and the son doth purchase lande. &c. and letteth the same lande to hys father for terme of yeres/ and the father by hys dede therofen feoffeth another in fe and byndeth him and hys heyres to warranty/and if the father dye whereby the warrantye descendeth to his son/this warranty shall not barre the son/for notwithstādynge thys warranty the son may well entre in the land or haue an assyse agaynste the aleynee if he wyll/ bycause the warranty began by dysseasyn. For when the father that had no estate but for terme

☞ warrantye that beginneth by dysseasyne.

of

of peres made a feoffemente in fee/thys was a dyscaeyn to hys sonne of frankt tenemēt that than was in the sōne. In the same maner it is if the sōne let vnto the father the lande to holde at wyll/ and after the father maketh a feoffemente with warranty &c. And as it is sayde of the father so maye it be sayd of euery other auncestre. &c. Cap. xlix

¶ In the same maner it is yᵗ tenaunte by elegit/tenaūt by statute marchaūt/ or tenaunte by statute staple make a feoffemente in fee with warranty. &c. thys shall not barre the heyre yᵗ oughte to haue the lande bycause that suche warrantyes begynneth by dyscaeyn.

¶ Also yᵗ wardeyne in Chyualry or wardeyne in Socage make a feoffemēt in fee or in fee taple or for terme of lyfe with warranty. &c. Suche warrantyes be no barres to the heyres to whome the lande shall descende bycause that they begyn by dyscaeyn.

¶ Also yᵗ the father and the sonne put place certayne lādes or tenementes to vses to hold to the tayntly. &c. after the father alyeneth yᵗ hole to another

Ca.xiiii. and byndeth hym and hys heyres to warrantye. &c. and after the father dyeth/thys warrantye shall not barre the sonne of the moyte that belonged to hym of the same tenementes/by-cause that as to the moyte that belonged to the sonne the warrantye began by dyssesyn.

¶Also yf. A. of. B. be seased of a mese and of. F. of. G that hath no ryghte entre in to the same mese clamynge to holde the same mese to hym & to hys heyres / but A. of. B. than is cõtynually dwellynge in the same mese / in thys cause the possessyon of the Franke tenement shalbe alwaye adiuged in. A. of. B. and not in. F. of. G. bycause that in suche case where two be in one mese or in other tenementes/& the one claymeth by one tytle and the other by a nother tytle the lawe shall adiudge hym in possessyon that hathe ryghte to haue the possessyon of the same tenemente But in the case aforesayde yf. F. of. G. make a feoffemente to certayne barretours & er to ryoners in the countrey for to haue mayntenaunce of them of

the

the same mese by a dede of feoffement with warranty by force of whyche the sayde. A. of. B. dare not dwell in the same mese but gothe oute of the same mese/ thys warrantye begynnethe by dysseasyn/ bycause that suche a feoffemente was cause that the sayde. A. of. B. left the possession of the same mese. ¶ Also yf a man that hath no ryght to entre in anothers tenementes entre in to the sayde tenementes and incontynent maketh a feoffement to other persones by hys dede with warranty/ and delyuer to them seasyn/ thys warranty begynneth by dysseasyn/ bycause that the dysseasyn and the feoffement were made as it were at one tyme. And that this is lawe/ ye may se it in a plee. Anno. xxxi. E. iii. in a wryte of Formedon in the reuerryon. ¶ warrantye lyneall is where a man seased of certayne lande in fee maketh the feoffemente by hys dede to a nother/ and byndethe hym and hys heyres to warrantye/ and hathe yssue and dyeth/ and the warrantye descendethe to hys yssue thys is a lyneall

Carrill.

* Warme.

* warrantye lyneall.

Cap. xiii.

warrantye. And the cause why thys is a lyneal warranty is not bycause that the warrantye dyscendethe from the father to hys heyre / but the cause is by cause that yf no suche dede with warrantye had bene made by the father / than the ryght of the tenementes shulde dyscende to the heyre & the heyre shulde conuey the dyscente from the father. &c. For yf there be father and sonne / and the sonne purchace tenementes in fee / and the father dysseasethe the sonne ther of / and aliyeneth it to another in fee by hys dede / and by the same dede byndeth hym and hys heyre to warrant the same tenementes. et. And the father dyeth / nowe is the sonne barred to haue the sayde tenementes / for he maye by no sute nor by any other mese haue the sayde tenementes bycause of the sayde warrantye. And that is a collateral warranty and yet the warrantye descendyde lyneally from the father to the sonne. But bycause that yf no suche dede with warrantye had be made / the sonne in no maner myght conueye the tytle that he hathe of the tenementes

Collateral warrantye.

tenementes frome hys father to hym Ca.xiiii.
in so muche that hys father had no
estate nor ryght in the tenementes/
therfore suche warrantye is called col-
laterall warranty. In so muche that
he that made the wartanty is collate-
rall to the tytle of the tenementes/and
that is as muche to saye that he to
whome waranty dyscendyd coulde not
conueye the tytle that he had in the te-
nementes by hym that made the war
rantye / in thys case yf no suche war
ranty had be made.

¶Also yf ther be grandefather/father
and sonne / and the graundefather is
dyssesed whose possessyon the father
releaseth by hys dede with warrantye.
&c. And dyeth / and after the graunde
father dyeth / nowe is the sonne barred
of the tenementes by the warrantye of
hys father / and thys is called lyneall
warranty/by cause that yf no such war
rantye had be made the same myghte
not haue conueyed the ryghte of the te-
nementes to hym nor whe we howe he is
heyre to the graundefather but by mea
nes of the father. &c.

Ca.xiii. ¶ Also yf a man haue yssue thre sonnes/ and is dyssesed and the elder son releaseth to the dyssesoure by hys dede with warranty.sē.and dieth withoute yssue/ and after thys the father dyethe/ this is lyneall warranty to the yonger sonne / byeause that thoughe the elder son dyed in the lyfe of the father/yet by possybylyte it myght be that he myght conuey to hym the tytle of the lande by his elder brother yf no suche warranty had be made. For it myghte be that after the deathe of the father the elder brother entred in to the tenementes & dyed wyth yssue and than the yonger son shal conuey to hym the tytle by his elder brother. But in thys case yf the yonger sone release wyth warranty to the dyssesoure & dyeth without yssue/ thys is a collaterall warrantyt to the eldest sonne/bycause that of such lande as was to the other / the elder brother by no possibilyte myght conuey to hym the tytle by meane of the yonger brother.

¶ Also yf tenaunte in the tayle haue

yssue

yssue thre sonnes and dyscontynue the tayle in fe/and the mydle son releaseth by his dede to the dyscontynuee bynde hym and hys heyres to warrantye.&c. and after the tenaunte in the tayle dyeth and the mydle dyethe wythoute yssue/ nowe is the elder sone barred to haue any recouere by a wrytte of Formedon bycause that the warrantye of the mydle brother is collaterall to hym/in so muche that he maye by no maner conueye to hym by force of the tayle any dyscente by the mydle brother/ & therfore it is a collaterall warrantye. But in thys case yf the elder brother dye wythoute yssue/ nowe the yonger brother may well haue a Formedon to the descendre and recouer the same lande/ bycause that the warranty of the mydle brother is lyneall to the yongeste brother/bycause it may be that by possybylyte the mydle brother may be seased by force of the tayle after the dethe of hys elder brother/and than the yongeste brother maye conucy hys tytle of dyscent by the mydle brother.&c.

¶ Also if tenaūt in the tayle dyscōtynue

the

Ca.xiii. the tayle and hathe yssue / and dye and the vncle of the yssue release to the dyf contynue with warranty and dye with out yssue this is a collaterall warranty to the yssue in the tayle / bycause that the warranty dyscendeth vpon the issue whych can not conuey him selfe to the tayle by meane of his vncle.

¶ Also yf tenaunte in the tayle haue yssue two doughters and dye / and the elder doughter entreth not in to the hole / and therof maketh a feoffement in fee with warrãty / and after the elder doughter dyeth without yssue / in thys case the ponger doughter is barred as to the moyte / and as to the other halfe she is not barred for as to the moyte that belongeth to the ponger doughter she is barrede / bycause that as to the moyte that belongeth to her she can not conuey the dyscent by the meane of her elder syster . And therfore as to that moyte / that is a collaterall warrantye / but as to the other moyte whyche belongede to her elder syster by the same elder syster the warrantye is no barre to the ponger syster bycause

that

that he maye conceyue her dyscent as to that moyte that belongeth to her elder by the same elder syster. And to as to that moyte that belonged to the elder syster the warranty as to that is lyneall to the ponger syster. &c. Ca.xlij.

¶ And note well that as to hym that demaundeth fee symple by any of hys auncestors/he shall be barred by lyneall warranty whyche descendeth vpon hym/except it be restayned by some statute / but he that demaundethe fee tayle by a wrytte of Formedon in the descendre shall not be barred by lineal warrantye/ except he haue rysen by dyscente in fee symple by the same auncestre that made the warrantye/ but a collaterall warrantye is barre to hym that demaundeth fee/and also to hym that demaundethe fee tayle without any other dyscente of Fee symple except in cases that be restayned by the statutes & other cases for certayn causes as shalbe sayde hereafter.

¶ Also yf lande be gyuen to a man & to hys heires of his body begotten the whyche taketh a wyfe and hath yssue a sonne

Ca.xiii. sonne betwene them/ and the husband dyscontynuethe the tayle in fee / and dyeth/and after the wyfe releaseth to the dyscontynuee in fee with warantye and dyethe / and the warrantye descendeth to the sonne. This is collaterall warrantye/ but yf tenauntes be gyuen to the husbande and the wyfe and to the heyres of theyre two bodyes begotten / whyche haue yssue a sonne/ and the husbande dyscontynuethe the tayle and dyethe / and after the wyfe releseth with warranty and dyeth/this warrantye is but a lyneall warrantye to the sonne/for the sonne shall not be barred in this case to sue his writte of Formedone excepte he haue ynoughe by dyscente in fe symple by his mother bycause that theyr yssue in a writte of Formedone oughte to conueye to him the ryghte as heyre to hys father and to hys mother of theyr two bodyes begotten by forme of the gyfte. And so in suche case the warrantye of the father & the warrantye of the mother be but as lyneall warrantyes to the heyre. &c. And note well that in euery case where a man demaundeth tenementes in fee

taple by a wrytte of Formedone / yf any of the pflue of the taple that had poſſeſſyō or that hath no poſſeſſyon make a warrantye &c. / yf he that ſueth the wrytte of Formedone myghte by any poſſybylyte by matter that myghte be in dede conueye to hym by hym that made the warrantye by the forme of the gyfte. Thys is a lyneall warranty and not collaterall. Ca.xliii.

¶ Alſo if a man haue pflue thre ſones and he gyueth lande to the eldeſte ſone to haue and to holde to hym and to the heyres of hys body begotten / and for defaute of ſuche pflue the remaynder to the mydle ſonne to hym / and to the heyres of hys body begotten / and for defaute of ſuche pflue the remaynder to the yongeſte ſonne / and to hys heyres of hys body begotten in thys caſe yf the eldeſte ſonne dyſcontynue the taple in fee and bynde hym and hys heyres to warraūty e dye without pflu / thys is a collaterall warrantye to the mydle ſonne and he ſhall be barred to demaunde the ſame lande by force of the remaynder / byeauſe that the remaynder is his tytle / and hys eldeſte

warrantye,
brother is collateral to yᵗ tytle whiche
hegyneth by force of the remaynder.
¶ In the same maner it is yᵗ the my-
die son had the same lande by force of
the remaynder by cause that his eldeste
brother made no dyscontynuaunce but
dyed wythoute yssue of his body/ and
after the mydle sonne maketh a dys-
contynuaunce with warranty. &c. and
dyeth without yssue/ thys is a colla-
terall warranty to the yongeste sonne
and also in this case if any of the sayde
sonnes be dyseased/ & the father that
made the gyfte releseth to the dysseasour
all his ryght. &c. with warranty/ thys
is a collaterall warrantye to that sone
upon whom the warranty descended.
causa qua supra. And so note well that
where a man that is collaterall to the
tytle. &c. releaseth with warranty that
is a collaterall warrantye.
¶ Also yᵗ the father gyde lande to his
elder sone to have and to holde to hym
and the heyres males of hys body be-
gotten. the remaynder to the seconde
sonne. &c. yᵗ the eldest brother alyene in
fee with warranty. &c. and hathe yssue
female

femayle and dyeth without yssue male/ thys is not a collaterall warranty to the seconde son / nor shal not hurte him of his accyon by Formedon in the remaynder bycause that the warrantye dyscendeth to the doughter of the eldest sonne/and not to the seconde son. For euery warrantye that dyscendeth /dyscendeth to hym that is heyre vnto him whiche made the warranty by the comon lawe. &c. Ca.xiii.

¶ Also yf lande be gyuen to a man and to his heyres males of his body begotten/ and for defaute of suche yssue the remaynder therof to hys heyres females of hys body begotten / and after the donee in the tayle maketh a feoffemēt in fee with warrantye accordynge/ and hath yssue a sonne and a doughter/ and dyeth this warrāty is but a lyneal warranty to the sonne to demaunde by wrytte of Formedon in the dyscendre. And it is but lyneall to the doughter to demaunde the same lande by wryt of Formedō in the remaynder / yf her brother dye without heyre male / bycause that she claymethe as heyre female of

Ca.xiii. of the body of her father begotten. But in this case if her brother in his life release to the discontynuee .&c. with warrantye.&c. And after dye without issue/ this is a collaterall warrantye to the doughter/ because that she can not conveye to her the right that she hathe by force of the remaynder by any meane of discente by her brother/ and therefore the brother is collaterall to the title of his sister/ and therfore his warrantye is collateral.&c.

Also I have herde saye that in the time of kynge Richarde the seconde there was a Justice in the comō place dwellynge in Kente called Rykhyll that had issue diuers sonnes. And his entent was that his eldest sonne shulde have certayne londes to hym and the heyres of his body begotten/ and for defaute of issue/ the remaynder to his seconde sonne.&c. And so to the thirde sonne.&c. And because that he wolde that none of his sonnes shulde alyen or make warrantye for to barre or to hurte the other that shulde be in the remaynder.&c. He caused to be made an

endenture

endenture to such effecte/that is to saye that the landes and tenementes were gyuen to hys eldeste sonne vpon thys condycyon / that yf the eldeste sonne alyened in fee or in Fee tayle.&c. or any of hys sonnes alyened .&c. that than theyre estate shulde cease and shulde be voyde/ and that than the sayde landes or tenementes Immedyatly shulde remayne to the seconde sonne and to the heyres of hys body begotten / and that vpon the same condycyon .S. that yf the seconde sonne alyen.&c. that than hys estate shulde cease / and that than the same landes and tenementes shulde remayne to the thyrde sonne / and to the heyres of hys body begotten and so forth/the remaynder to other of hys sonnes /and ipuere of sealyn was made accordynge . But it semethe by reasone that all suche remaynders in the forme before sayde be voyde ; and of no value / and that for.iii. causes .One cause is becauſe that euery remaynder that begynneth by a dede/ it behoueth that the remaynder be in hym to whome the remaynder is layed by Ca.xiii.

Ca.xiii. forte of the same dede whan the iuuere of seasyn is made to him that hathe the Franke tenemente. And suche remayndre was not at the seconde sõne na the tyme of iuuere of seasyn in the case before sayde. &c.

The seconde cause is yf the fyrste sonne alyen the tenementes in fe/than is the Franke tenemente and the fee symple in the alyenee /and in none other / and yf the donoure had any reuercyon by suche alyenacyon / the reuercyon is dyscontynued/thã thoughe that by some reasone it maye be that suche remayndre shall begyne bys be ynge and bys growynge/Immediatly after suche alyenacyon made to a straunger that hathe by the same alyenacyon Franke tenemẽte and fee symple/and also yf suche remayndre shulde be good / than myghte he enter vpon the alyenee where he had no maner of ryght before the alyenacyon / whyche shulde be inconuenyent. The thyrde cause is whan the condycyon is suche that yf the eldest sonne alyen. &c. That bys estate shall cease / or shalbe voyde.

&c.

&c. than after such alyenacion. &c. may the donour entre by force of suche condycyon. &c. as it semethe/and so the donour or his heyres in suche case oughte more soner to haue the lande than the seconde sone that had no ryghte before suche alyenacyon. &c. and so it semethe that suche remaynders in the case before sayde be voyde. &c. Ca. xiii.

¶ Also at the comen lawe before the statute of Glocestre pktenaunte by the curtesy had alyened in fe with warranty accordāt/after his decease this was a barre to the heyre. &c. as it apperethe by the wordes of the same statute. But it is remedyed by the same statute that the warrantye of the tenaunte by the curtesy shalbe no barre to the heyre excepte he haue ynoughe by dyscente by the tenaunte by the curtesye for before the sayde estatute that was a colateral warrāty to the heyre bycause he coulde not conuey any tytle of dyscente to the tenementes by the tenaunt by the curtesy/but onely by hys mother or other of hys auncesters. &c. and that is the

Ca.xiii. cause why it was collaterall warranty. But yf a man entepte take a wyfe whyche haue yssue a sonne bytwene them / and the father dyeth and the sonne entrethe in the lande and endoweth hys mother / and after the mother alyeneth that that she hathe in her dower to a nother in fe wyth warrantye accordynge / and after dyeth / and the warrantye descendethe to the sonne, nowe the sonne shall be barred to demaunde the same lande bycause of the sayde warrantye / bycause that suche collaterall warrantye of tenaunt in dower is not remedyed by any statute. The same law is where tenaunte for terme of lyfe maketh an alyenacyon with warranty. &c. and dyeth / and the warrantye descendethe to hym that had the reuercyon or the remaynder. &c. they shall be barred by suche warrantye. &c.

¶ Also in the sayde case yf it so were that whan the tenaunt in dower alyeneth. &c. the heyre was wythin age / & also at that tyme that the warrantye

des

descendyd vppon hym he was wythin Ca.xiii.
age/ in thys case the heyre mayc after
entre vpon the alyenee not withstan-
dynge the warrantye descendyd.&c. by
cause that no laches shall be adiuged
in the heyre within age that he entred
not vpon the alyence in the lyfe of the
tenaunte in dower / but yf the heyre
was wythin age at the tyme of the a-
lyenacyon/ and after he came to full
age in the lyfe of tenaunte in dower/
and so beynge of full age he entred not
in the lyfe of tenaunte in dower and af
ter the tenaunte in dower dyeth/there
peraduenture the heyre shall be barred
by suche warrantye/bycause it shall be
accompted hys foly that he beynge of
full age entryd not in the lyfe of te
naunte in dower.&c.

¶Also it is spoken in the ende of the
sayde statute of Glocestre that spe-
keth of the alyenacyon wyth warran
tye made by the tenaunte by the cur
tesy in suche forme.

¶Also in the same maner the heyre of
the woman after the deth of the father
& mother shall not be barred of accyon

Ca.xiii. yf he demaunde the herytage or the maryage of hys mother by a wrytte of entre that hys father alyened in the tyme of hys mother wherof no fyne is leuyed in the kynges courte. &c. And so by force of the same statute yf the husbande of the wyfe alyene the herytage or maryage of hys wyfe in fe with warranty. &c. by hys dede in the contrey/ this is clere lawe that hys warrantye shall not barre the heyre excepte he haue ynoughe by dyscente. &c. But the doubte is yf that the husbande alyene the herytage of hys wyfe by fyne leuyed in the kynges courte with warranty. &c. yf this shal barre the heyre without any dyscent in value. &c. And as to that I wyll saye here certayne reasons that I haue herde say in thys matter. I herde my mayster syr Rycharde Newton late chyefe iustyce of the comon place saye ones in the same place that suche warrantye that the baron maketh by fyne leuyed in the kynges courte shall barre the heyre thoughe that he haue no thynge by dyscente/by cause the statute sayth wherof no fyne

is leuyed in the kynges courte.&c. And so by hys oppynyon this warrantye by fyne.&c. abydeth yet a collaterall warranty as it was at the comon lawe not remedyed by the sayde estatute/ bycause that the sayd estatute exceptethe the alyenacyons by fine with warrantye. And some other haue sayde and yet say the contrary/ and this is theyre proffe that as by the same chappytre of the sayde estatute it is ordeyned that the warrantye of the tenaunte by the curtesy shall not barre the heyre excepte he haue by ynoughe discent.&c. though that the tenaunte by the curtesy leuya fyne of the same landes with warranty. &c. as strongly as he can yet thys warrantye shall not barre the heyre excepte he haue assets or ynoughe by dyscēt.&c. And I beleue that thys is lawe And therfore they saye that it shulde be inconuenyente to vnderstande the statute in suche forme that a man that hath not but in the ryghte of hys wyfe may by fyne leuyed by hym selfe of the tenementes that he hathe but in the ryghte of hys wyfe with warranty.&c. Cap. xii.

Ca.xiii. shall barre the heyre of the sayde tenementes without dyscente of fee symple &c. where tenaunte by the curtesye can not do it But they haue sayde that the statute shall be vnderstande after the forme/that is to say where the statute speketh/ whereof no fyne is leuyed i the kynges courte/this is to say where no lawfull fyne is rightfully leuyed in the same kynges courte/and that is where of no fyne of the husbandes hys wyfe is leuyed in the kynges courte/for at the tyme of the makynge of the sayde statute euery estate of landes or tenementes that any man or woman had that shulde dyscende to hys heyre was fee symple without condycyon or vpon condycyon in dede or in lawe. And by cause that suche fyne than mighte lawfully haue ben leuyed by the husbande and his wyfe/and that the husbandes the wyfe and the heyres of the husbande warrante. &c. suche warrantye shulde barre the heyre. &c.

¶ And so they saye that thys is the vnderstandynge of the sayde statute/ for

for yf the husbande & the wyfe made a feoffement in fe by dede in the countrey the heyre after the decease of the husbande and the wyfe shall haue a writte of entre sur cui in vita. &c. notwithstandynge the warrantye of the husbande. Thanyf no suche exceptyon was made in the statute of the fyne leuyed. &c. than the heyre shulde haue the wrytte of entre. &c. notwithstandynge the fyne leuyed by the husbande and the wyfe bycause that the wordes of the statute before the exceptyon of the fine leuyed. &c. be generally. &c. that is to saye that the heyre of the woman after the dethe of the husbande and the wyfe shall not be barred of actyon yf he demaunde the herytage or the mariage of hys mother by a wrytte of entre that his father alyened in the time of hys mother And so it shulde be in the case of the statute exceptynge suche wordes were / that is to say wherof no fyne is leuyed in the kynges courte. And so they saye that this is to vnderstande / wherof no fyne by ye husbãde & the wyfe is leuyed i the kinges Cap. xii.

Ca.xiii. kynges courte the whiche is lawfully
leuyed in such case. For yf the Justices
haue knowlege that a man that hathe
nothynge but in the ryghte of his wife
wyll leuy a fyne in his name only they
wyll not nor oughte not to take suche
fine to be leuyed by the husbande only
withoute nampynge the wyfe/ therfore
enquyre of thys matter.

¶ Also it is to wyt that in such wordes
where the heyre demaundeth the hery-
tage or maryage of his mother / this
worde is a disiunctiue / & is as muche
to say if the heyre demaunde the hery
tage of his mother/ that is to be vnder
stande the tenemētes that hys mother
had in fee symple by discente or by pur
chase / or yf the heyre demaunde the
maryage of his mother / that is to say
the tenementes that were gyuen vnto
his mother in franke mariage.

The effecte of thys worde (defen-

¶ Also where it is moued in dyuers
dedes these wordes in latyn. Ego et
heredes mei. &c. warrantizabimus et
imperpetuum defendemus / it is to se
what effecte hathe that worde defen
demus in suche dedes. And it semethe
that

that it hathe not the effecte of warrantyse nor comprehendeth any cause of warrantyse / for yf it shulde be so that it takethe effecte or cause of warrantyse / than it shulde be put in some tynes leuyed in the Kynges courte. And a man neuer sawe that these wordes defendemus was in any fyne but all onely this worde warrantyzabimus by whyche it semethe that thys verbe warrantyso maketh warrantye / and is the cause of warrantyse / and none other worde in oure lawe. Ca.xiii.

demus) in a dede

¶ Also yf tenaunte in the tayle be seased of tenementes deuysable by testamente after the custome. &c. And the tenaunte in the tayle aliyeneth the tenementes to hys brother in fee / and hath yssue and dyeth / and after hys brother deuyseth by hys testamente the same tenementes to another in fee / and byndeth hym and hys heyres to warrantyse. &c. And dyeth without yssue / it semethe that thys warrantye shall not barre the yssue in the tayle yf he will sue hys wrytte of Formedone / bycause that thys warrantye bycendyd not to

Ca.xiii. the yssue in the tayle in so muche as the vncle of the yssue was not bounde by force of the same warrantye in hys lyfe And therof that he coulde not warrant the lande in hys lyfe is in so much that the deuyse coulde not take any execucyon or effecte but after hys decease and in so muche that the vncle in hys lyfe was not holde to warrante / suche warrantyse ne maye not dyscende from hym to the yssue in the tayle.&c. for no thynge may descende from the auncestry to hys heyre but the same that was in the auncestre .Also a warrantye maye not go withoute the nature of tenemen tes by custome / but onely after forme of the comon lawe. For yf tenaunte in tayle be seased in tenementes in borrough Englyshe / where the custome is that all tenementes of the same borrough ought to dyscende to the yongeste sonne/ and he dyscontynueth the tayle with warrantyse. &c. and hathe yssue two sonnes and dyeth seased of other landes and tenemētes in the same borrough in Fee symple to the value and more of the tenementes tayled.&c.

☞ warrantye shall ensue de course of the cōmen lawe.

yet

yet the yongeste sonne shall haue a for medon of the tenementes tayled / and shall not be barred by the warrantyse of hys father thoughe ynoughe to hym dyscended in fe symple fro the same father after the custome / for hys that the warranty descendeth vpon the elder brother that is in full lyfe.&c. and not vpon the yonger sonne . In the same maner it is of collaterall warrantyse made of suche tenementes where the warrantyse dyscendeth to the elder sonne .&c. thys shall not barre the yonger sonne .&c. In the same maner it is of tenementes in the shyre of Kente whyche be called Gauelkynde/ the whyche tenementes be departable amonge the bretherne .&c. after the custome .&c. yf any suche warranty be made by theyr auncestres/ suche warrantyse dyscendethe all onely to the heyre that is heyre by the comon lawe and not to all the heyres whyche be heyres of suche tenementes after the custome.&c. Ca.xliii.

¶ Also yf a tenaunt in tayle haue yssue

two

two doughters by dyuers bentres and
dyeth / and the doughters entre and a
straunger dysseaseth them of the same
tenementes / and one of the doughters
releaseth by her dede to the dysseasour
all her ryght and byndeth her / and her
heyres to warrantyse / and dyeth with-
out yssue / in thys case the eyer that suc-
ceedeth may well enter and put out the
dysseasoure of all the tenementes / for
thys that such warrantyse is no barre
tynuaunce nor collaterall warrantye
to the eyster that succedeth for thys
that they be of halfe blode / and the one
may not be heyre to the other after the
comon lawe. But otherwyse it is where
there be doughters of tenaunte in the
tayle by one venter.

¶ Also yf tenaunte in the tayle let te-
nementes to another for terme of lyfe
the remaynder to another in fee / and
the collaterall auncestre cõfyrmeth the
estate of the tenaunte for terme of lyfe
and byndeth hym and hys heyres to
warrantyse for terme of lyfe of the te-
naunte for terme of lyfe and dyeth / and
the tenaunt in the tayle hath yssue and
dyeth

dyeth / nowe thys yssue is barred to
alle the tenemētes by wyrt of Fo:me
don durynge the lyfe of the tenaunt fo:
terme of lyfe / bycause of the collateral
dyscente vppon the yssue in the tayle.
But after the decease of the tenaunte
fo: terme of lyfe / the yssue shall haue a
fo:medone. &c. And vpon thys I haue
harde a reason that this case shal proue
by another case, that is to say / yf a mā
let hys lande to another to haue and
to holde vnto hym and to hys heyres
fo: terme of anothers lyfe / and the les-
sour dyeth / leuynge hym to whose lyfe
&c. And a straunger entreth in the lande
that the heyre of the lessee maye put
hym out / fo: thys that in the case nexte
afo:esayde / in so much that a man may
bynde hym and hys heyres to warrant
to the tenaunt fo: terme of lyfe all one-
ly durynge the lyfe of the tenaunte fo:
terme of lyfe / and that warrantyse dys-
cendeth to the heyre of hym that made
the warrantyse / the whyche warran-
tyse is no warrantyse of inheritaunce
but all onely / fo: terme of anothers
lyfe by the same reason where tene-

Ca.xlii.

Fo.xiii. mentes be let to a man to haue and to holde to hym and to hys heyres for terme of anothers lyfe / yf the father dye ireuynge he to whose lyfe hys heyre shall haue the tenemēte a leuynge hym to whose lyfe .&c. For they haue sayde that yf a man graunte an annuyte to a nother to haue and to take to him and to hys heyres for terme of anothers lyfe/yf the graunte dye.&c. That after hys heyre shall haue the annuyte durynge the lyfe of hym to whose lyfe. &c. Quere de ista materia.

☞ Enquyre ¶But where suche leafe or graunte is made to a mā or hys heyres for terme of yeres/ in thys case the heyre of the lesse: and the graunter shall neuer haue after the deth of the lessee or the graunteee that / that is so letten or graunted/ for thys that it is Chatell real / and all chatels reals by the comon lawe shall come to the executours of the graunte or of the lessee and not to the heyre .&c.

☞ warrantye collaterall ¶Also in some cases it maye be that howe be it that a collaterall warrantyse be made in fee .&c. yet suche warrantyse maye be defeted and anp-

enters

entyd. As the tenaunte in the tayle dyscontynue the tayle in fee/ and the dyscontynue is dyssesed and the brother of the tenaunte in the tayle releaseth by hys dede to the dysseasoure all hys ryghte.&c. with warrantyse in fee and dyeth wythoute yssue/ and the tenaunte in the tayle hathe yssue and dyeth/ nowe the yssue is barred of hys accyon by force of the collaterall warrantyes descendynge vpon hym/ but yf after thys the dyscontynuee entre vpon the dysseasoure / than may the heyres in the tayle haue hys accyon of Formedon.&c. for thys that the warrante is anpentyd and defeted. For whan the warrantyse is made vnto a man vpon any estate that than he had / yf the estate be defeted the warrantye is defeted.

Ca.xlii. anpent. and defete.

¶ In the same maner it is yf the dyscontynuee make a feoffement in fee rendrynge to hym certayne rent/ & for defaute of paymēt a reentre.&c. & a collaterall auntcestr releasethe to the feoffe that hath estate vpon condycyon .&c. & dyeth wythoute yssue though that the

Ca.xiii. warrantyse descende vpon the yssue in the tayle/ yet yf after the rente be behynde and the dyscontynuee entre the in to the lande &c. than the yssue in the tayle shall haue his recouere by a wryt of Formedon / for this that that warrantye collateral is defeted. And so yf any such collateral warrantyse be pleded agaynste the yssue in the tayle in hys accyon of formedone he may shewe the matter as it is aforesayde / howe the warrantye is defetyd/ & so he maye well mayntayne his accyon.

¶ Also yf tenaunte in the tayle make a feoffement to hys vncle and after hys vncle maketh a feoffemente in fee with warrantyse .&c. to a nother/ and after the feoffee of the vncle enfeoffeth agayne the vncle in fee / and after the vncle enfeoffeth a straunger in fe with oute warrantyse and dyethe without yssue/and the tenaunt in the tayle wyl bryngе his writ of Formedon agaynst the straunger that was in the feoffement.&c. by the vncle / in thys case the yssue shall neuer be barred by the warranty that was made by the vncle to

the

the sayde fyrst feoffee of hys vncle / for hys that the sayde warrantye was defeted and anyented/for hys that the vncle toke agayne to hym as greate estate of hys sayde fyrst feoffe to whom the warrantye was made as the same feoffee had of hym. And the cause why the warrantye is anyented / in thys case is thys / that is to saye that yf the warrantyse were in hys force/ than the vncle shall warrante vnto hym selfe/ that maye not be/ but yf the feoffe made estate to the vncle for terme of lyfe or in fe tayle/ sauyng the reuercyon vnto hym &c. Or that he make a gyfte in the tayle to the vncle / or a lease for terme of lyfe/ the remaynder ouer. &c. But thys the warrantyse is not all vtterly anyented / but it is put in suspence durynge the estate that the vncle had / for after thys that the vncle is deed without yssue / than he in the reuercyon or he in the remaynder shall barre the yssue in the tayle of hys wyfe of Formedon by the collaterall warrantyse in suche case &c. But otherwyse it is where the vncle had as greate estate in the lande by

Ca.xlii. the feoffe to whome the warrantyse was made as the feoffee had of hym.&c.

¶Also yf the vncle after suche feoffemēt made with warrantyse of a release made by hym with warrantyse be attaynte of felony or outlawed of felony/ such collateral warraty shal not barre nor greue the yssue i the tayle/ for this that by the attayndre of felony the blode is corrupte betwene theym.&c.

¶Also yf tenaunte in the tayle be dysseased/ and after maketh a release to the disseasour with warrantyse in fee/ and after the tenaunte in the tayle is attaynte or outlawed of felony and hathe yssue and dyeth/ in thys case the yssue in the tayle maye entre vpon the disseasour.

¶And the cause is for thys that no thynge maketh the discontynuaunce in thys case/ but the warrantye/ and the warrantye maye not discende to the yssue in the tayle for this that the blode is corrupte betwene hym that made the warrantye and the yssue in the tayle. For the warrantyse alwaye abydeth at the comon lawe/ & the comon

lawe

lawe is suche that whan a man is out lawed or attaynte of felony/ wherby outlawry is an attaynder in the lawe that the blode betwene hym and hys sonne and all other whiche shulde be sayde hys heyres is corrupte / so that nothynge by discente may descende to any that may be hys heyre by the comon lawe. And the wyfe of such a man that is so attaynte shall neuer be endowed in the tenementes of her husbande so attaynte. Ca.xiiii

¶ And the cause is because men shuld more eschewe to do felony.&c. But the yssue in the tayle as to the tenemen tes tayled is not in suche case barred because he is enherpted by force of the statute and not by the course of the comon lawe. And therfore suche attaynder of hys father or of hys auncestre in the tayle. &c. shall not put hym out of hys ryghte that he shulde haue by force of the tayle.&c.

¶ Also yf tenaunt in the tayle enfeoffe yᵉ hys vncle which enfeoffeth another with warranty .&c. yf after yᵉ feoffe by

Ca.xiii. bis dede release to the vncle all maner of warranty/or all maner of couenaun tes reals / or all maner of demaundes by suche release the warrantye is extynete. And yf the warrantye in suche case be pleded agaynst the heyre in the tayle / bryngeth hys wrytte of Formedon to barre the heyre of hys accyon/ yf the heyre haue and plede the sayde release &c. he shall defete the plee in barre &c. And many other cases and matters be there / wherby a man maye defete warrantyes.

☞ And it is to wyt that in the same maner as collateralll warranty may be defetyd by matter in dede or in lawe / in the same maner maye lyneall warrãtye be defetyd. &c. For yf the heyre in the tayle bryngeth a wryt of Formedon / & a lyneall warantye of hys auncestre inheryted by force of the tayle be pleded agaynste hym with that that assets to hym descendyd of fee symple by the same auncestre that made the warrantye yf the heyre that is demaundaunte may adnull and defete the warrantye / thys sufficeth to hym for the

dyscent

dyscent of other tenementes of fee
symple maketh nothynge to Lay.xiii.
barre the heyre with
out the war
rantye.
&c.

¶ The table.

¶ Here begynneth the table of this present boke.

Nowe haue I made for the my
sonne.iii.bokes.
¶ The fyrst is of estate that men haue
of landes or tenementes/that is to saye/
¶ Of tenaunte in fee symple.
Tenaunt in fee tayle.
Tenaunt in the tayle after possybylyte
of yssue extynct.
Tenaunt by the curtesy of Englande.
Tenaunt in dower.
Tenaunt for terme of lyfe.
Tenaunt for terme of yeres.

Tenaunte at wyll by the comon lawe.
Tenaunte at wyll by the custome of the maner.

¶ The seconde boke.

¶ The seconde boke is of Homage/

Fealte.
Estrunge/
Knyghtes seruyce/
Socage/
Franke almoygne or free almes/
Homage auncestrell/
Graunt sergeanty/
Petyte sergeanty.
Tenure in burgage.
Tenure in vyllenage.

Of.iii. maners of rentes. that is to say/

Rent seruyse./
Rent charge/
and Rent secke.

¶ And these two small bokes haue I made for the for to vnderstande better certayne chapyters of the auncyente bokes of tenures.

¶ The thyrde boke.

¶ The thyrde boke is of
Perseuerys.
of Joyntenauntes.
Tenauntes in comon.
Estates of landes or tenementes vpon
condicyon.
Dyscentes that take away entrys.
Contynuall clayme/
Releses.
Confyrmacyons.
Attournementes.
Exemptyons of garrantyes/
that is to say/
garranty lyneall.
garranty collateralle
and garrantye that begynnethe by
dysseasyn.

¶ And knowe thou my sonne that I
wyll not that thou dyscue that all that
that I haue sayd in the sayde bokes be
lawe/ for that wyll I not take vpon me
nor presume. But of those thynges
that be not lawe enquyre and lerne of
my wyse mayster lerned in the lawe.

Not/

Ca. xiii. Notwithstandynge though that certayne thynges that be noted and specyfyed in the sayde bokes be not lawe/ yet suche thynges shall make the more apte and able to vnderstande and lerne the argumentes and the reasons of the lawe. For by the argumentes and the reasons in the lawe a man maye more soner come to the certaynte and to the knowledge of the lawe.

Ler.

Plus laudatur quando ex ratione probatur.

¶ Imprynted at London in Fletestrete, by me Robert Redman, dwellynge at the sygne of the George, nexte to Saynt Dunstones churche.

4XO
I-11-38